

U.S. Department of Energy



OWA Procedure Manual
May 2003

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1. Purpose. This section provides an introduction to Office of Worker Advocacy administration of Part D of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

2. The Energy Employees Occupational Illness Compensation Program Act. The EEOICPA, as amended, 42 U.S.C. § 7384 *et seq.*, was enacted as Title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106-398. Part D of the Act specifies that the Department of Energy (DOE) will provide assistance to a DOE contractor or subcontractor employee in filing a claim under the appropriate State workers' compensation system.

3. Provisions of Part D of EEOICPA. To receive assistance under the provisions of Part D, an employee or a deceased employee's survivor or estate must meet each of the following criteria:

a. Employment occurred at a covered DOE facility as a present or former DOE contractor or subcontractor employee.

b. A Physician Panel has determined an illness was as likely as not to have been aggravated, contributed to or caused by exposure to toxic substances while employed at a covered DOE facility.

4. Benefits to Eligible Contractor or Subcontractor Employees. Upon an acceptance of positive physician's panel finding by the Office of Worker Advocacy (OWA), DOE will assist an applicant who decides to file a claim for benefits at a State workers' compensation agency.

a. Make available the finding of the physician panel to the applicant.

b. Forbid all applicable DOE contractors, to the extent permitted by law, from contesting the applicant's workers' compensation claim in any administrative or judicial forum with respect to the same health condition the Physician Panel made a positive finding.

c. Disallow any expenditure by applicable DOE contractors that serves to support arguments or

activities that have the intent or effect of delaying or defeating a State workers' compensation claim or award.

d. Worker compensation costs incurred as a result of a State award for the condition found by the Physician Panel to be causally related to employment are reimbursable contract costs to the extent permitted under any contract with the DOE.

5. Program Organization. The offices involved with the administration of Part D of the EEOICPA are:

a. The Office of Worker Advocacy. The OWA is responsible for the administration of Part D of the EEOICPA. The Program Office is located at:

Office of Worker Advocacy
EH-8/L'Enfant Plaza Building
U.S. Department of Energy
1000 Independence Ave SW
Washington DC 20585-1615
Telephone: (202) 287-1877
Fax: 202-287-1899

b. The Office of Hearings and Appeals. This office is responsible for processing appeal requests stemming from the OWA claims process. The Office of Hearings and Appeals is an independent body within the DOE and is separate from the OWA application processing office. The office is located at:

Office of Hearings and Appeals
HG-1/L'Enfant Plaza Building
1000 Independence Ave SW
Washington DC 20585-1615
Telephone: (202) 287-1400
Fax: (202) 287-1415

c. Resource Centers. These offices are located throughout the United States. They serve to assist DOE contractor or subcontractor employees and survivors of such employees complete an application for OWA assistance. In addition, they provide information concerning the program and assist with the collection of necessary factual and medical documentation. Information concerning the Resource

Centers including contact name, address or telephone numbers can be obtained by contacting the OWA Program Office or on the web at <http://tis.eh.doe.gov/advocacy/index.html>.

6. Customer Service. OWA is dedicated to providing the highest level of customer service to individuals conducting business with the program.

a. OWA customers are satisfied with the level of responsiveness to concerns or other issues as they are raised.

b. OWA services are delivered in a timely and accurate manner (Exhibit 1).

c. All contact with OWA customers including telephone, written, and electronic means are conducted in an accurate, courteous, and timely manner.

d. Telephone calls are answered promptly and any request is responded to immediately. If a return call is required, an accurate estimate of when to expect follow-up is provided.

e. OWA written communication is clear, concise, and instructional. Moreover, it is written in plain language and avoids technical jargon.

f. The Program Office will maintain an Internet web site with regularly updated information about the program. All necessary forms are to be available electronically on the web site.

7. Directives. Directives are publications relating to administration and implementation of the EEOICPA. All directives are public documents and are available upon request to the OWA Program Office.

a. External Directives. These may consist of either legal or information releases. The target audiences for this type of directive are individuals or groups outside of OWA.

(1) Federal Register. This publication contains notices and rules pertaining to new or revised policy. Items listed in the Federal Register

advise the public of proposed changes to regulations or final changes adopted by the program.

(2) Informational Notices. These are publications designed to inform the public of issues pertaining to the program.

b. Internal Directives. The audience for an internal directive is the staff within the OWA tasked with administration of the EEOICPA program. These include all OWA standing instructions, policies, forms, guidelines, and procedures. Internal directives contain specific procedural direction that require continuing action and remain in force until superceded, canceled, or rescinded.

(1) Procedure Manual. This is the primary document used to communicate established policy and procedures. It provides a specific explanation of the OWA process for the administration and implementation of Part D of the EEOICPA. Modifications or changes to the officially sanctioned procedure manual are made in the form of a sequentially numbered document called a transmittal. A transmittal describes a change to the procedure manual requiring the replacement of a page or section with updated information.

(2) Program Memorandum. A program memorandum provides immediate guidance to staff pertaining to policy or procedural issues as they arise. It is a directive that requires one-time or temporary action. An expiration date is provided and the program memorandum is discarded when it expires, the required action is completed or the content is incorporated into the procedure manual via transmittal.

8. OWA Document Security. All OWA records relating to claims for benefits under the EEOICPA are considered confidential and may not be released, inspected, copied or otherwise disclosed except as provided in the Freedom of Information Act and the Privacy Act of 1974. All OWA record users are responsible for maintaining positive control over all mail and files in the possession of the

program. All mail and files are kept in a secure location and are accessible only by authorized employees of the OWA.

9. Forms. All OWA forms are available upon request to the OWA Program Office, the OWA web page, or the resource centers.

a. Form 350.2 Employee Request for Review by Physician Panel. This is the primary application form for current or former DOE contractor employees.

b. Form 350.3 Survivor Request for Review by Physician Panel. This is the primary application for a survivor of a former DOE contractor employee.

c. Form 350.4 Authorization for Release of Information. This form is used to obtain a signed release from the claimant allowing OWA to obtain factual and medical evidence from different sources.

d. Form 350.5 Employment Affidavit. This form is used to collect statements from individuals who have knowledge of the work history of a claimed DOE contractor employee.

e. Form 350.6 Work History. This form is used to obtain claimed history of employment including DOE contractor or subcontractor employment.

10. Records Maintained by OWA. OWA maintains two primary types of case file records.

a. Paper File. All hard copy documentation associated with individual subcontractor or contractor employee case file will be inserted in a paper folder for storage.

b. Electronic File. An electronic record will be created for each contractor or employee case file. OWA utilizes an electronic database called the Case Management System (CMS). Relevant data will be entered into CMS to enable the claims staff to effectively manage the adjudication of the claim. All hard copy documents associated with a case file will be scanned into CMS and accessible in electronic format.

Exhibit 1 - OWA Metrics and Timeframes**Purpose**

The following sections define metrics for the phases of case processing. These metrics are goals and do not reflect the actual processing time required to complete a particular case. Actual processing time may be significantly longer than described below due to the large volume of cases being processed.

Initial Processing

1. 10 working days from date of application receipt.

Cases filed through resource center are examined to verify accuracy of electronic record in CMS.

Applications received directly from applicant will be reviewed and CMS record created.

Written acknowledgement of case receipt is released to each applicant.

Hardcopy case file record created.

Case Development

2. 3 working days from case assignment to Case Manager.

Telephone contact with each applicant listed in the case file is initiated.

Initial eligibility deficiencies identified and appropriate development undertaken.

3. 120 calendar days from case assignment to Case Manager.

Cases that satisfy initial eligibility have been developed to the furthest reasonable extent possible. The Case Manager Summary Worksheet is complete and the case is referred to the OWA Physician for Physician Panel screening.

4. 3 working days from referral of a case file and completed Case Manager Summary Worksheet to the OWA Physician.

OWA Physician completes analysis of case file and recommends further development or certifies the Case Manager Summary Worksheet for Physician Panel referral.

5. 3 working days from certification of the Case Manager Summary Worksheet by the OWA Physician.

Case Manager has prepared the Notice of Case Filing and Employer Affidavit and transmitted it to the appropriate contracting entity.

6. 3 working days from the submission of each applicable Statement by Applicant Reviewing the Record or the expiration date for submission of the form.

The Case Manager has properly prepared the case for Panel referral and submitted the case file to the Physician Panel Administrator.

Panel Operations

7. 30 working days from the submission of a case file to the Physician Panel.

Physician Panel has presented a completed Physician Panel Report to the Physician Panel Administrator.

Post Panel Operations

8. 5 working days from receipt of a complete Physician Panel Report.

OWA Physician has completed their review and made a recommendation for acceptance or re-examination.

9. 3 working days from the certification of the Final Decision by the Assistant Secretary of Energy.

Each eligible applicant is sent a copy of the Final Decision.

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1. Purpose. This section provides definitions for certain terminology that is used in the administration of Part D of the Energy Employees' Occupational Illness Compensation Program Act.

2. Definitions. The Office of Worker Advocacy utilizes particular terminology during the adjudication of cases.

Act. The Energy Employees' Occupational Illness Compensation Program Act (EEOICPA).

Affidavit. A sworn written statement that can be used to substantiate a claim.

Applicant. The individual who has filed a claim for benefits under Part D of EEOICPA as either the injured employee, a survivor of a qualified employee or a representative of a qualified employee's estate.

Atomic Weapons Employer. Means an entity, other than the United States, that processed or produced, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling. The Secretary of Energy designates atomic weapons employers.

Case File. The application for benefits and any documentation submitted in support of such application. A case file can contain multiple applications from individuals seeking coverage for the same contractor or subcontractor employee.

Case Management System (CMS). The electronic database that records essential data in conjunction with claims filed under EEOICPA.

Contractor. An entity engaged in a contracted business arrangement with a beryllium vendor or the Department of Energy to provide services, produce materials or manage operations at a beryllium vendor or Department of Energy facility.

Data Acquisition Request (DAR). This is a form used to request employment, exposure and medical evidence from a DOE action site.

Department of Energy (DOE). The Federal Agency responsible for the administration of Part D of EEOICPA

Department of Labor (DOL). The Federal Agency responsible for the administration of Part B & C of EEOICPA.

DOE Action Site. The DOE action site is responsible for providing evidence in response to a DAR. The action site either owns or has access to DOE facility employment and medical records.

Occupational History. An occupational history is a written description of an individual's exposure to certain materials while in the performance of duty at a DOE facility.

Occupational Illness. Any diagnosed condition or symptom considered by the employee to be related to a toxic exposure is an occupational illness.

Office of Environment, Safety and Health (EH). EH is the office within DOE responsible for implementing Part D of EEOICPA.

Office of Hearings and Appeals (OHA). The Office of Hearings and Appeals is the office within DOE responsible for examining and responding to appeal requests after OWA has issued a decision.

Office of Worker Advocacy (OWA). OWA is the office within the Office of Environment, Safety and Health responsible for administration of Part D of the EEOICPA.

OWA Program Office. This is the location where case files under Part D of EEOICPA are adjudicated.

Physician Panel. Three board certified medical doctors with experience in occupational medicine comprise the Physician Panel. The National Institute for Occupational Safety and Health select panel members. The Physician Panel is responsible for making a conclusion as to whether a claimed illness was aggravated, contributed to, or caused by exposure to a toxic substance.

Remand Order. A ruling made by the Office of Hearings and Appeals to return a case to the OWA Program Office for further action or development.

Site Profile. A description of a DOE facility and the materials used at various time periods on the premise.

Subcontractor An entity engaged in a contracted business arrangement with a beryllium vendor or a contractor of the Department of Energy to provide a service at a beryllium vendor or Department of Energy facility.

Survivor. Any individual claiming a familial relationship to a deceased employee and who has filed a claim seeking benefits under Part D of EEOICPA.

Toxic Substance. Means any material that has the potential to cause illness or death because of its radioactive, chemical, or biological nature.

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1. Purpose. This section describes the process for handling incoming mail.
2. Roles and Responsibilities for Handling Incoming Mail. These individuals process incoming mail received by the OWA.
 - a. Record Manager (RM) is responsible for maintaining the mail inventory. The RM is also responsible for overseeing the general security of mail and records received by the OWA.
 - b. Record Analyst (RA) is responsible for sorting mail into appropriate categories, recording the inventory of incoming documentation, imaging and recording documents in CMS, routing mail to appropriate locations and batching daily mail. They ensure the mailroom is secure and all documents entering or exiting the mail location are properly tracked.
 - c. The Quality Control Manager (QCM) is responsible for conducting a complete review of any initial incoming paper application to ensure that the information provided by the claimant is appropriately recorded in CMS. Any errors or other omissions are to be corrected. He or she creates new case file records in CMS.
3. Opening and Date Stamping Mail. Incoming mail is to be opened and all contents removed for review. Each individual piece of mail is date stamped according to the date received in the mailroom.
4. Sorting Mail. The RA is to review each piece of new mail to determine how it is to be initially sorted.
 - a. Primary Claims. Incoming mail containing a completed 350.2, 350.3 or a statement of claim is to be identified and placed in a holding section for new applications. These records can include applications received from the DOE resource centers or directly from the applicant. The RA is to access CMS to determine whether or not the Program Office has an electronic record of the case.

(1) For applications already recorded in CMS, the RA must verify the electronic record has been updated to show that a hard copy application has been received. If there is no record of a hard copy receipt, the RA will update CMS to show record receipt. The application and any attached documents will then be referred to the QCM. For situations where CMS shows a claim has been created and a hard copy received, the RA will place the duplicate application and any attachments in the supplemental sort for processing.

(2) For cases where there is no record in CMS, the RA must refer the application and any attachments to the QCM. The QCM will be responsible for creating a new case record in CMS. This generally will occur with applications filed directly by the applicant rather than filed through a resource center.

b. Supplemental Mail. Any mail that does not contain a paper application for benefits under Part D of EEOICPA is sorted into a supplemental mail category.

(1) All incoming supplemental mail is to be reviewed by the RA and its receipt electronically recorded.

(2) The RA must identify the case file number associated with each piece of mail. If the mail arrives from the resource center, an imaging cover sheet should be included listing the employee name, SSN and document type or title. The inclusion of this imaging cover sheet will signify that the resource center has imaged the document and input it as an entry in CMS. For mail that does not arrive from the resource center, the RA should clearly identify the employee name and SSN on the mail.

c. Direct Mailings. Certain mail received into the mailroom is for the immediate attention of a particular individual within the office. This type of mailing can include certified mail, Federal Express, UPS or other priority mailing. Packages of this type

are to be opened and the contents electronically recorded by the RA. The mail can then be delivered directly to the intended recipient. All direct mailings must be returned to the File Room by the close of business each workday for insertion into the paper file

5. Quality Case Review of Existing Cases. It is necessary to review the initial paper application and any other documents submitted to the OWA Program Office to ensure it is properly logged into CMS. The QCM ensures that CMS accurately reflects the information provided by the applicant on the DOE form 350.2 or 350.3. Moreover, it is necessary to verify that any additional documents, such as medical releases, death or birth certificates, employment records, medical documents or any other items, are properly registered in CMS.

a. If CMS does not accurately portray what information is reported in the application or provided as additional documentation, the QCM is to make the necessary changes to ensure that the electronic and hard copy data match. Should it be necessary, the QCM can request that the resource center where the application originated contact the claimant for additional information or clarification.

b. After the QCM has reviewed the application package and ensured that CMS accurately reflects the information provided, an OWA Application Acknowledgement Letter will be prepared (Exhibit 1). The OWA Application Acknowledgement Letter includes the following information:

- (1) An acknowledgement of receipt
- (2) The assigned file number
- (3) General Information on the program
- (4) Program Office contact information

c. The application and its contents are to be referred back to the mailroom for imaging and paper file creation.

6. CMS Case Creation. If a new application for OWA assistance is received into the Program Office and the RA determines there is no record of a corresponding case file entry in CMS, the application and its contents are referred to the QCM.

- a. The QCM will review any new application for Part D assistance and verify that CMS does not contain a valid case record. He or she will enter all relevant data from the application or attachments into CMS and create a new electronic case file record.
- b. An OWA Application Acknowledgement Letter will be prepared.
- c. The application along with a copy of the acknowledgement letter is returned to the mailroom.

Exhibit 1 – OWA Application Acknowledgement Letter

Date

File Number:

(Applicant Address)

Dear:

The Department of Energy (DOE) has received your application for assistance under Part D of Public Law 106-398, the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA).

This program provides assistance to employees (or survivors) of DOE contractors and subcontractors who have become ill because of exposure to a toxic substance while working at a DOE facility. DOE's Office of Worker Advocacy (OWA) will help eligible applicants obtain necessary records and will present their information to an independent panel of occupational physicians. The Physician Panel, appointed by the Department of Health and Human Services, will provide DOE with impartial and independent determinations as to whether the illness or death of a DOE contractor employee arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility. Their determination will be based on whether exposure to a toxic substance while at a DOE facility was a significant factor in aggravating, contributing to, or causing the worker's illness or death.

If there is a positive determination, OWA will assist the applicant in filing a claim with the relevant State workers' compensation system. Any benefits that may result from this claim will be determined by the particular State where the claim is filed. However, DOE will make every effort to assist as many qualifying DOE contract workers as possible apply for and receive State workers' compensation benefits.

Please note that the panel's determination does not affect any claim you may have filed under EEOICPA with the Department of Labor, nor does it affect your rights to apply for State workers' compensation on your own.

If you are eligible for this program, your case will be processed in the order in which your application was received. A case manager from OWA will be in contact with you if additional information is required to begin processing your claim.

If you have any questions in the meantime, please call our Toll Free Hotline at 1-877-447-9756 or visit our website at <http://tis.eh.doe.gov/advocacy>.

Sincerely

Case Manager

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1. Purpose. The purpose of this section is to describe the operation of the OWA file room.
2. File Room Roles and Responsibilities. File room staff members are responsible for imaging new documents, creating paper files and managing cases in the file room.
 - a. Record Manager (RM) is responsible for ensuring all incoming documents are scanned prior to inclusion in the paper file. He or she is responsible for the creation of paper files and maintenance of all cases within the file room. All paper case files leaving the file room location are logged and tracked to the record user. The file room is secure and all the files are returned by the close of business each day.
 - b. Record Analyst (RA) is responsible for gathering case information supplied by the mailroom staff, imaging documents, creating files and inserting documents into the paper file.
3. Imaged Records. Each piece of documentation received by the OWA Program Office is to be imaged prior to being included into the paper file. The OWA imaging application will electronically copy each document. Each electronic image will be assigned to an indexed batch of similarly categorized documents such as employee information, vital records, medical documents, exposure data, etc. The index of available imaged records is accessible by OWA staff through CMS.
4. Paper File Creation. Once a new OWA form 350.2 or 350.3 has been received, a CMS electronic record created and any documents imaged, a paper file is created.
 - a. Case Folder. Case file documentation will be inserted into a case file folder. The folder will be identified on the tab with the employee's last and first name. On the right side of the employee's name will be the initials of the State where the employee's last known DOE employer facility was located.
 - (1) The location of the employee's last known DOE employer is obtained through careful review of the work history provided by the claimant.

This information is reported on OWA form 350.6 Work History or the DOL EE-3 Work History form.

b. Activity Log Sheet. The Activity Log Sheet (Exhibit 1) is a method for tracking actions that involve the case file. It is a single page document stapled to the inner left side of the file jacket. Once the Activity Log Sheet is attached to the file, the RA enters the employee name and social security number on the upper left hand side of the form. The RA denotes the initial case creation date and initials the log sheet. As new items are added to the file, the RA updates the Activity Log Sheet.

c. OWA Case File Review Checklist. The Case File Review Sheet (Exhibit 2) is a form attached to the left side of the case folder jacket under the Activity Log Sheet. It is a form used to identify the vital documents contained in a case file, such as the OWA application, DOL forms, birth or death certificate, employment records, and medical records etc.

d. Dividing Documents Added into the File Folder. Factual and medical documents inserted into the file folder are to be divided into different categories separated by colored dividers. All documentation is to be secured to the right side of the case file jacket using a metal spindle. For each category, mail is added in reverse chronological fashion with the newest record on top. Records are sorted based on the date of the document.

(1) Employee Information (Blue). Employee information will be included in this section. The DOE 350.2 or DOE 350.3 should appear on the top of any documentation in this section. After the DOE application, additional evidence should be sorted in the following order:

(a) Letter of Representation.

(b) DOE 350.4 Authorization for Release of Information.

(c) DOE 350.6 Work History or any other listing made by the claimant describing the history of claimed employment.

(d) Form 350.5 Employment Affidavit.

(e) Any DOL forms, such as the EE-1, EE-2, and EE-3.

(2) Vital Statistics (Orange or White). Any vital statistics documentation will be added to this section. This type of evidence generally includes legal documentation such as a birth certificate, marriage license, or death certificate.

(3) Medical Documentation (Yellow). This section will include any medical documentation pertaining to the case. Medical evidence can include such items as medical narratives, doctor or hospital notes, diagnostic test results, treatment regimens, medical bills or surgery notes.

(4) Exposure Data (Green). The Green section will include any exposure data received from either the claimant, a resource center or a DOE facility. Generally, exposure documentation will reference the types of toxic materials an employee came into contact with or was present at a particular site. Exposure data can be reported in site characterization studies, industrial hygiene reports, job descriptions, environmental health studies or radiation dose monitoring reports.

(5) Miscellaneous Information (Pink). File all information not belonging to any of the previously listed categories behind the pink divider.

5. Filing Cases. All files are to be maintained in the file room location unless requested by a record user. Files are maintained in metal filing cabinets. Each file is to be arranged in such a way that the folder tab containing the employee name, SSN, and State of last known DOE employment is clearly visible.

a. Method of Filing. Case folders are to be filed according to the State of last known DOE employment. Each separate State section in the filing cabinet will be appropriately labeled. Within each State section, folders will be filed alphabetically according to the last name of the covered employee.

6. Updating the File. As new records are inserted into the paper file, the RA is to update the Activity Log Sheet. He or she must list the date, their initials and describe the type of action taken. It is essential that the RA certify that any new documents inserted in the case file have been imaged for accessibility in CMS.

7. Location Changes. All case files removed from the File Room are to be tracked to identify the record user and location change. To remove a case file from the file room, a record user completes a Record Request Form. The form provides the case file number and the name of the record user requesting the file. The Record Request Form is brought to the file room and placed in the file room inbox. File room staff will periodically check the inbox and process any file requests.

a. Once a Record Request Form is received, the RA updates the Record Request Log Sheet. This log maintains an entry for case requests/returns, the initials of the record user and the date. Once a Record Request Form has been submitted and the file room log updated, the file can be released to the record user.

b. The record user is responsible for ensuring that any case that has left the premise of the file room is returned after the required case action. Moreover, the record user must clearly identify with a scan cover sheet, any new document that has not been imaged to be added to the file.

Exhibit 1 - Activity Log Sheet

Activity Log Sheet

Employee Name:

SSN:

Date:

Activity:

Exhibit 2 - OWA Case File Review Checklist**OWA Case File Review Checklist**

Name: _____

SSN: _____

Illness(es) Claimed:

_____ Employee

_____ 350.2/KK1

_____ EE-1

_____ 350.4/Original Signed Release Release

_____ EE-3 (Federal Employment Info) Employment Info)

_____ 350.6 (State Employment Info) Info)

_____ EE-5

_____ Employment Verif Rec'd

_____ Dose Reconstruction (NIOSH) (NIOSH)

_____ Exposure Assessment

_____ Medical Records

_____ EE-4

_____ EE-7

_____ Survivor

_____ 350.3/KK2

_____ EE-2

_____ 350.4/Original Signed

_____ EE-3 (Federal

_____ 350.6 (State Employment

_____ EE-5

_____ Employment Verif Rec'd

_____ Dose Reconstruction

_____ Exposure Assessment

_____ Medical Records

_____ EE-4

_____ EE-7

_____ Marriage License

_____ Birth Cert (Deceased)

_____ Birth Cert (Dependants)

_____ Proof of Dependency at
of death

_____ Death Certificate

_____ Autopsy Report

Claim Filed: _____

/Previous State Filing:

_ No: _____ Unknown: _____
time

_____ Confirmed in State Comp Database

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2. Letter to Representative - - - - -			

1. Purpose. This section describes general case management procedures in OWA.
2. Case Management Roles and Responsibilities. These staff members are responsible for managing case files while under development by the Program Office.
 - a. Case Manager (CM) is responsible for ensuring the security of all cases assigned to him or her. Case file movement within the office must be properly recorded. All communication is conducted with either the applicant or an authorized representative.
 - b. Case Manager Assistant (CMA) provides general assistance with managing a caseload under the direction of the Case Manager. He or she inputs status changes into CMS and prepares correspondence to the applicant.
3. Processing Cases. OWA applies rules to govern the processing of case files to ensure all are handled in an efficient and timely manner.
 - a. Division of Case Files between Case Managers. In general, each CM will be assigned to handle cases from certain DOE facilities. The assignment of individual case files is based on the name of the DOE facility where claimed employment last occurred. This information will be provided on either the DOE form 350.6 Work History or the DOL form EE-3 Employment History. While cases are assigned according to the DOE facility where employment last occurred, the CM is responsible for handling development issues for the entire case. In some situations, case assignments may be redistributed to ensure an equitable workload among OWA Program Office staff members.
 - b. Order of Processing. Unreviewed cases are worked according to the date of creation in CMS.
 - (1) A weekly report will be generated listing the oldest unreviewed cases for each DOE facility. This report will be made available to the CM and the CMA. It will be used to determine the order of cases to be developed working oldest to most recent.

- c. Tracking in CMS. All case actions undertaken by the CM must be recorded in CMS. As development of a case occurs, CMS should be updated to ensure it accurately reflects the status of the case file. The CM will input status changes in CMS. Moreover, the CM must ensure all actions or communication with the claimant are appropriately recorded in CMS.
 - d. Maintaining the Paper Case File. Whenever a CM or CMA handles a case, he or she is to ensure the file is in proper order and any loose mail is spindled.
4. Communication with the Applicant. The CM cannot communicate case file information to any party other than the applicant or a duly authorized representative. All communication with the applicant or a representative is recorded in both CMS view history section and the paper file.
- a. Any written correspondence issued to the applicant by OWA is to be copied and included into the paper file record.
 - b. The content of all telephone calls is to be recorded as a note in CMS. The CM must identify the caller name, date, topic of discussion and whether any follow-up action is required. If it is a return call being made, the date of the original contact must be listed.
 - c. Email communication is summarized in the CMS notes field. The note should include the name of the contact, date of receipt, date of response and the topic of discussion. A printout of the initial email and any reply is inserted into the paper file.
5. Case Withdrawals. An applicant may request a withdrawal of their application at any point prior to the written determination of the Physician Panel. A request for withdrawal of an OWA application must be in writing and be signed by the applicant. If the CM is advised of an applicant's desire to withdraw, he or she is to issue a Notice of Withdrawal form to the applicant (Exhibit 1). Attached to the form should be a cover letter explaining the necessary requirements for withdrawing an application. Until a signed request for withdrawal of application is

received, the CM or Physician Panel is to proceed with the normal adjudication of the claim.

6. Representatives. While an applicant does not need to be represented by another person to receive assistance under the Part D of the EEOICPA, he or she may appoint a single individual to represent his or her interests. To appoint a representative, the applicant must provide a signed statement listing the name and address of the chosen representative. Once a representative has been appointed, the CM is to ensure the representative receives a copy of any correspondence issued on behalf of the applicant. An authorized representative also has permission to discuss the case with CM or other OWA staff. The CM should be cognizant of the fact that in a case file where there are multiple survivors, the representative is entitled to only documentation that pertains to the applicant whom he or she represents.

a. Corresponding with a Representative. Once the applicant has provided a written authorization for another individual to act as his or her representative, the CM should prepare a brief letter advising the representative of their assignment to the case (Exhibit 2). Moreover, the letter should note that the OWA has no provision to provide for the payment of any fee or other costs associated with services provided by a representative.

Exhibit 1 - Notice of Withdrawal

Notice of Withdrawal of Application Energy Employees Occupational Illness Compensation Program Act Part D DOE State Workers' Compensation Assistance Program		U.S. Department of Energy Office of Environment, Safety and Health Office of Workers' Advocacy	
1. Party Filing this Form is: <div style="text-align: center;"> <input type="checkbox"/> Employee <input type="checkbox"/> Survivor </div>			
Social Security Number	<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto;"></div>	Date of Birth	<div style="text-align: center; font-size: 24px;">/ /</div>
Name			
Maiden/Formal Name			
Street/P.O. Box/Apt#			
City/State/Zip Code			
Telephone			
<p>I hereby withdraw my application requesting review by the Department of Energy's Office of Worker Advocacy physician panel, part of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). I do this with the knowledge that I can at any time resubmit my application for review.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; text-align: center;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Applicant Signature (required) </div> <div style="width: 45%; text-align: center;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Date (required) </div> </div>			

Please return this form to:

Office of Worker Advocacy
U.S. DOE, Room 1G-080
Attn: Claims Processing
1000 Independence Avenue, SW
Washington, DC 20585

Exhibit 2 - Letter To Representative

To Be Developed

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1. Purpose. The purpose of this section is to explain how to develop a case for Physician Panel review.
2. Case Development Staff. Case Development Staff are responsible for reviewing an application for OWA assistance, developing evidence and preparing a case file for submission to a Physician Panel.
 - a. Case Manager (CM) is responsible for reviewing the documentation submitted with an application for Physician Panel Review to determine if it meets the eligibility requirements outlined in the EEOICPA and the regulations. Necessary action is taken to develop medical and factual evidence for referral of the case to a Physician Panel.
 - b. Case Manager Assistant (CMA) under the direction of the Case Manager provides assistance in matters relating to the development of a case for Physician Panel Review.
 - c. OWA Physician is responsible for preliminary review of each claim being submitted to the physician panel to ensure that medical and exposure documentation are clearly presented. The OWA Physician provides guidance to the CM concerning medical terminology, exposure data and other medical issues.
 - d. Records Research Manager oversees all site record research efforts and serves as a resource for non-routine record inquiries.
3. Initial Contact with the Applicant. The CM is to attempt telephone contact with each applicant. The purpose of the call is to introduce the applicant to the CM and provide information about the OWA program. The CM will attempt to contact the applicant once each working day for three days. If the CM is unable to reach the applicant in person within the three day period, he or she will mail a letter summarizing the information that would have been provided over the phone. Any call attempt is to be noted in CMS.

a. If the CM is able to speak directly with the applicant, the following information is to be conveyed:

- (1) CM Name and purpose of call;
- (2) Explanation of the OWA program and the assistance provided to the applicant that can be useful in obtaining State workers' compensation;
- (3) Difference between the OWA and the program administered by the Department of Labor;
- (4) Contact information including mailing address and telephone number.

b. A CMS note is to be created summarizing the details of the call. It should be dated the effective the day of the call.

c. If the applicant indicates a desire to withdraw his or her claim from consideration during the call, the CM is sent a Notification of Withdrawal form with a cover letter.

d. Subsequent to the call, the CM is to prepare a letter to the applicant summarizing the topics of the conversation (Exhibit 1).

4. General Provisions. The OWA regulations at 10 CFR § 852.6 specify that the OWA Program Office must submit an application to a Physician Panel if there is reasonable evidence to satisfy three criteria.

a. The application was filed by or on behalf of a DOE contractor employee or a deceased DOE contractor employee's estate or survivor.

b. An illness or death of a contractor employee may have been caused by exposure to a toxic substance.

c. The illness or death of the DOE contractor employee may have been related to employment at a DOE facility.

5. Initial Application Screening. The CM is to review incoming application to ensure it meets minimal standards

prior to further development by OWA. Any application that does not meet these requirements is deemed ineligible for referral to the Physician Panel. The initial requirement include:

- a. A qualified applicant has filed an application for benefits under Part D;
- b. An illness is claimed to have been aggravated, contributed to or caused by exposure to a toxic substance; and
- c. Contractor or subcontractor employment at a DOE facility has been claimed.

6. Establishing Eligible Applicants. An applicant can be a subcontractor or contractor employee, the estate of a deceased DOE contractor employee or the survivor of a deceased DOE contractor employee who is eligible to apply for a death benefit under the State workers' compensation system for which the applicant is seeking assistance in filing a claim. A case file cannot be referred to a Physician Panel until each applicant has been determined eligible to seek assistance from OWA.

- a. Employee applicant. An eligible contractor or subcontractor employee may file an application for assistance from OWA.
- b. Estate applicant. An estate constitutes the administration of the legal obligations of a deceased individual. Generally, a designated individual is granted the legal authority to manage an estate. This individual is often called an estate executor, manager, or administrator. To accept an estate claim, the CM must ensure that the individual completing the application has the legal responsibility to administer an estate.

(1) If the applicant indicates that they are managing the estate of a deceased employee, the CM must ensure that appropriate documentation exists in the case file substantiating the legal authority granted to the applicant. Appropriate documentation can include a copy of any legal documentation naming the applicant as the estate executor, manager, or administrator.

(2) In situations where there is insufficient evidence to establish the legal authority for the applicant to be managing the estate, the CM should prepare a letter (Exhibit 2). The letter should advise the applicant that OWA can not proceed with the development of the case until legal documentation is received establishing them as the manager of the deceased employee's estate. The applicant should be advised to present the necessary documentation within thirty days or the case will be found ineligible for the OWA program. If after thirty days, evidence has not been received or evidence has been received that does not clearly establish the legal authority of the applicant to file on behalf an employee's estate, the applicant can be found ineligible.

b. Survivor Applicant. Individuals related to a DOE contractor employee are eligible to file an application for OWA assistance. Any applicant that completes a DOE form 350.3 and identifies a familial relationship to the deceased DOE contractor employee, will be deemed an eligible survivor for purposes of receiving assistance from OWA. All survivor applicants for the same employee are to be combined under a single case file.

7. Establishing Eligible Claimed Illness. Upon receipt of an application for OWA assistance, evidence must be provided that establishes a claimed illness may have been aggravated, contributed to or caused by exposure to toxic material while employed at a DOE facility. The evidence presented with the application will be considered sufficient to establish a claimed illness or condition if the following elements are satisfied:

a. The applicant has claimed an illness or condition that may be related to exposure to toxic material; and

b. Medical documentation submitted with the application substantiates a possible causal relationship between the claimed illness and exposure to toxic material. Any medical documentation that suggests a potential causal connection between illness and toxic exposure is sufficient to make this finding. If the medical evidence submitted with the application

does not establish any causal connection, the CM must make a written request to the applicant for additional medical documentation. The correspondence should request any documentation that will substantiate a causal relationship between a claimed illness and toxic exposure. The applicant is to be granted thirty days to provide sufficient evidence to establish an eligible claimed illness. If after thirty days, insufficient evidence has been received, the CM may make a finding of ineligibility.

8. Establishing Eligible Claimed Employment. The applicant must indicate in their employment history that they were employed for any one period as a contractor or subcontractor at a qualified DOE facility. Given the voluminous number of contractors who were engaged in employee activities connected to the DOE, there is no single resource available which can identify all contractor or subcontractor employers who performed services at recognized DOE facilities.

a. The CM is to rely on the information provided by the applicant to make a determination as to whether the eligible employment is claimed.

(1) The CM should first review the entire work history provided by the applicant. Any employment claimed that occurred at a DOE facility should be noted. To make this determination, the CM is to compare claimed employment locations to the list of DOE facilities maintained on the OWA web site or in the Federal Register.

(2) After the CM has identified claimed employment at a DOE facility, the CM can eliminate from consideration any claimed employment at a DOE facility that is not contractual in nature, such as direct employment for a Federal or State agency.

(3) If the CM determines claimed employment occurred at a DOE facility and it was not for a Federal or State agency, he or she can proceed with case development.

(4) Any claimed employment that did not occur at a qualified DOE facility can be eliminated from consideration.

b. In instances where the evidence does not clearly specify whether or not employment occurred at a qualified DOE facility, the CM is to prepare a letter to each applicant (Exhibit 3). The letter must explain the eligibility requirements under OWA and that based on the initial review of the evidence, it is unclear whether the employee was a qualified contractor or subcontractor who was or is employed at a DOE facility. Each applicant is to be granted thirty days to provide evidence that establishes qualifying employment. The letter should specify that if the necessary information is not provided within the applicable time frame, the application will be found ineligible. If after thirty days, the applicant has not provided evidence sufficient to establish claimed employment at a qualified DOE facility, the CM can find the applicant(s) ineligible.

9. Making an Ineligibility Finding. Every employee or surviving applicant filing on behalf of a deceased employee must satisfy the initial eligibility standards established by OWA in order to proceed to further development. If the application does not satisfy the initial eligibility standards, a formal decision is to be issued by the OWA Program Office.

a. A written determination of ineligibility is to be prepared for the signature of the Director of OWA. A separate determination must be issued for each ineligible applicant. An ineligibility determination must include several elements:

- (1) Requirements for eligibility;
- (2) Discussion of the evidence reviewed by the CM;
- (3) Basis of the finding of ineligibility; and
- (4) Appeal Rights.

b. The case file along with the determination of ineligibility is to be referred to the Director of OWA

for review and signature. Once the Director has signed the determination, a copy of the determination will be inserted into the case file. The original signed version will be released to the ineligible applicant(s). The file will then be returned to the CM.

10. Document Acquisition Request (DAR). After the CM has determined that a case file satisfies the initial eligibility standards, he or she is to proceed with the collection of additional documentation necessary for Physician Panel review. The DAR is a form used to collect medical and employment data retained by the DOE employing facility (Exhibit 4).

a. The CM is to prepare the DAR by indicating the type of evidence being requested. The form provides check boxes next to different types of evidence that is required by OWA.

b. The DAR generally will request three types of evidence: Medical, Employment Verification, and Exposure Data.

(1) Medical evidence. The DOE action site will be asked to supply any documentation that pertains to medical examination, diagnosis or treatment of the claimed illness. The site will also be asked for records describing any medical monitoring performed at the site.

(2) Employment Verification. The DAR requires that the DOE action site review the employment history and verify the accuracy of any claimed employment. The DOE action site will be asked to report its finding on the Department of Energy Employment Verification Form (Exhibit 5). Verification of employment requires that evidence exist to establish three components:

(a) The employee worked for the claimed employer during specified time periods;

(b) The claimed employer is/was a DOE contractor or subcontractor; and

(c) The employee was engaged in employment activities on the premise of a covered DOE facility.

(3) Exposure Data. The DAR will include requests for any information pertaining to the employee's exposure to toxic material while employed at the facility. This will include specific requests for radiological dose records, incident or accident records, safety methods, job description and industrial hygiene records.

c. The DAR will be forwarded to the DOE action site responsible for providing a response. A listing of the action sites responsible for employee records from the different applicable DOE facilities is to be maintained by the OWA. The DOE action site is responsible for providing a name and telephone number for a primary point of contact. The point of contact handles the DAR requests within the action site and coordinates responses to OWA.

(1) No Identified Point of Contact (POC). If the site targeted by a DAR has no documented POC, then the DAR is in an exception state. The CM forwards the targeted site name and employment time frame to the Records Research Manager. The Records Research Manager will attempt to locate a POC for the site.

(a) If this effort succeeds, the CM forwards the DAR to the identified point of contact. The DAR proceeds as if a point of contact was originally assigned to the site. The Records Research Manager adds the newly identified point of contact to the official list.

(b) If the Records Research Manager cannot locate a point of contact, then the CM closes the DAR and pursues alternate means of obtaining records using the same methods applied when a point of contact exists but the Site is unable to locate any applicable records.

11. Reviewing a DAR response. Once a DOE action site returns a DAR, the CM must review it along with any attachments to determine whether it satisfies the requirements of the program. The CM may consult the OWA physician for guidance in establishing reasonable medical and exposure data. He or she can also decide whether any follow-up with the DOE action site is necessary to obtain additional information.

a. The CM must determine whether or not the DOE action site has verified the entire period of claimed employment. If the evidence from the DOE action site fails to verify the complete period of claimed employment, additional development is necessary.

b. Evidence must be presented that provides sufficient documentation of exposure to toxic substance while employed on the premise of a DOE facility. The primary information to be reported by the DOE action site should include the following:

(1) Location of employment activities conducted by the employee;

(2) Time period an employee engaged in specific activities at particular locations within the DOE facility;

(3) Types of materials present at the employment location; and

(4) Safety equipment utilized by the employee at the location of employment activities.

c. Medical evidence submitted in response to the DAR is to be added into the case file. The CM should update CMS with a note describing any additional information received from the DOE facility.

d. The CM is not to conduct any development with the DOE action site if the response to the DAR clearly indicates that no other employment, medical or exposure data is available for the named employee.

12. Establishing Verified Employment. Verifying the accuracy of claimed employment is a required component of case development. As part of the DAR, the DOE action site

is asked to verify the accuracy of claimed contractor or subcontractor employment at a DOE facility. If the DOE action site is unable to verify employment or can only verify a portion of claimed employment, the CM is to request the applicant submit additional evidence to substantiate a period of claimed employment.

a. The written request should advise the applicant that employment cannot be verified at a covered DOE facility and that other evidence is needed to substantiate claimed employment. The applicant should be asked to supply any documentation that can reasonably establish the accuracy of claimed employment. The applicant is granted thirty days to provide a response. The applicant should be advised that if a sufficient response is not forthcoming, a decision will be rendered based on the evidence of record. The applicant should be asked to supply any of the following:

(1) Records or documents created by any Federal government agency (including verified information submitted for security clearance), any tribal government or any state, county, city or local government office, agency, department, board or other entity or other public agency or office;

(2) Records or documents created as a byproduct of any regularly conducted business activity or by an entity that acted as a contractor or subcontractor to the DOE; or

(3) Affidavits or other types of signed statements attesting to the accuracy of a historical claim. The employee is to be advised to use the DOE form 350.5 (Exhibit 6) Employment Affidavit to collect statements from knowledgeable parties.

b. After the thirty-day time frame, the CM is to review any documentation submitted and determine whether sufficient evidence exists to reasonably establish the accuracy of claimed employment. The CM must use ample discretion in reaching a conclusion. The evidence does not need to be of such quality to prove employment occurred beyond all reasonable doubt, merely that it is sufficient to convince the CM of the

accuracy of the applicant's proposition. Statements provided by way of an affidavit should be considered in light of other evidence submitted in support of a claim. The submission of an affidavit without any collaborating evidence will generally be insufficient to factually establish the accuracy of claimed employment.

(1) Case development for the Physician Panel may proceed if at least one period of claimed subcontractor or contractor employment is verified.

(2) If the CM determines, based on his or her review of the case file, that there is no period of verified contractor or subcontractor employment, the application is to be found ineligible. A formal decision of ineligibility is to be prepared and released to the applicant(s).

13. Requesting Additional Exposure Data from the DOE Action Site. If the DOE action site does not provide a complete and accurate reporting of potential exposure to toxic substances, it may be necessary to request additional information. The CM will have to use discretion to determine whether the exposure information provided by the DOE action site sufficiently substantiates exposure to toxic substances. Should the evidence be deemed insufficient to reasonably establish the accuracy of exposure, the CM may contact the DOE action site either by writing or by telephone. The action site should be asked to provide clarification of any item that is unclear or not fully substantiated. All activities of the CM in the collection of additional evidence from the DOE action site should be noted in detail in CMS.

14. Requesting Evidence from DOL. The CM is to examine the contents of the file to determine if there is an indication that the applicant has filed a claim with the DOL under Part B of the EEOICPA. This can be accomplished by searching for copies of a completed EE-1 or 2 Claim for Benefit forms. The CM can also look for any other forms or correspondence suggestive of a DOL claim. If there is evidence contained in the file indicative that the claimant has dual applications under both the DOL and OWA program,

the CM can request DOL to submit any evidence in their possession.

15. Communicating with Former Worker Programs. Certain employees of DOE facilities were included in programs intended to track medical and exposure history. These programs often maintained large amounts of information in connection with certain illnesses attributed to employment activities. OWA has arranged with several of these programs to have medical evidence presented when requested in connection with an application for State workers' compensation.

16. Obtaining an Employee Occupational History. An Occupational History is a report detailing specific job titles, dates of employment, and exposure information. To the extent practicable and appropriate, every case file to be considered by the Physician Panel is to include an Occupational History for each job held by the employee at any DOE facility. For certain cases files, an Occupational History may already be contained in the case file documentation. Many DOE facilities or former worker programs prepared employee occupational histories for the purpose of medical monitoring.

a. If the CM reviews a case and concludes an Occupational History is not included in the file, he or she is to contact the employee or each eligible applicant to arrange for a telephone interview. The purpose of this interview will be for the CM to collect sufficient information to prepare an Occupational History for the case. The CM or designee is to use DOE form 350.7 (Exhibit 7) to record the information received during the interview.

(1) A call should be made to the applicant requesting a convenient time to conduct the interview. Arrangements should be made for the interview to last approximately 1 hr to 1 ½ hour. Once the interview is arranged the CM should make a note of it in CMS.

(2) The CM should call the applicant at the agreed upon time to conduct the interview. The interview should begin with an introduction by the CM and a description of the purpose of the call.

(3) Using DOE 350.7 as the guideline for the call, the CM should proceed to collect as much occupational information from the interviewee as possible. The CM must complete a separate DOE form 350.7 for employment at different DOE facilities.

(4) Once the CM has concluded the interview with the applicant, they are to update CMS with a note recording the action. Form 350.7 should be completed in its entirety, imaged and then spindled in to file.

(5) In some instances, especially when handling survivor cases, the CM may find that a survivor applicant has limited knowledge of the claimed employee's occupational history. If upon contact with the applicant it becomes evident that he or she does not have any relevant knowledge of the employee's occupational history, the CM may conclude the interview without completing form 350.7. However, the CM must include an entry in the CMS note that the applicant was contacted for the purposes of obtaining an occupational history, but no relevant information was available.

17. Advancing a Case File to the Physician Panel. As development of the case file occurs, the CM has the discretion at any point to conclude that a case file is ready for referral to the Physician Panel. If, in the opinion of the CM, the case file contains all the necessary documentation to establish the essential medical, employment and exposure elements required under the Act and regulations, they may prepare the case to the Physician Panel. Alternatively, when the case file does not contain the necessary documentation to establish the essential element of a case to be referred to the Physician Panel, the CM must ensure that appropriate development has occurred to ensure that all available documentation pertaining to the application has been collected and incorporated in the case file.

a. Completing the Case Manager Summary. The Case Manager Summary (Exhibit 8) is a checklist utilized by the CM to ensure that appropriate documentation has

been collected to support the case. It functions as a table of contents for the case file.

18. Medical Review by the OWA Physician. Prior to any referral to the Physician Panel, the OWA Physician must certify the case file is complete and ready to be referred to the Physician Panel. The function of the medical review by the OWA Physician is to ensure that the CM has developed a case file to the fullest extent possible. The OWA Physician will recommend additional development by the CM concerning any notable medical or exposure deficiencies. If the OWA Physician determines that appropriate development has occurred, he or she is to certify the case file for referral to the Physician Panel by signing in the appropriate section on the Case Manager Summary Worksheet.

19. Preparing File for Submission to the Physician Panel. Prior to the submission of the file to the Physician Panel, the CM must obtain comments from the employee's employer and permission from each eligible applicant to proceed with a panel review.

a. The cognizant contracting authority responsible for overseeing a named subcontractor or contractor employer identified in the file is issued a Notice of EEOICPA Case Filing and Employer Affidavit (Exhibit 9). The CM will grant the contracting authority fifteen days to complete the form. If the form is not returned within the allowable time frame, OWA will assume that the employer has no comment in regard to the application.

b. Once the employer has provided any comments in regard to the application, a package for each eligible applicant is to be prepared. Each package must include:

(1) Cover letter (Exhibit 10) explaining that the applicant's file is ready for panel review and that they must agree all available evidence has been presented before the case can go any further. The applicant should be advised to submit any other evidence they would like to be considered by the Physician Panel. A period of thirty days is to be granted to the applicant to return the Statement by Applicant Reviewing the Record Form. The applicant should be advised

that should the form not be returned within thirty days, the case file will proceed to the Physician Panel based on the evidence of record.

(2) A Statement by Applicant Reviewing the Record Form (Exhibit 11). This form must be completed and returned to the OWA by each applicant listed under a case file.

(3) Copy of the entire paper case file including any comments from the employer. The copied case file is to be reviewed to ensure any protected information concerning an individual who is not an applicant or claimed employee is redacted; and

(4) Printout of all CMS notes.

20. Submission to the Physician Panel Administrator (PPA). After each eligible applicant has returned a signed Physician Panel Release form and submitted any additional evidence for consideration or if thirty days has elapsed without a response from the applicant, a complete copy of the entire case file will be made. Each page of the copied file will be sequentially numbered. The CM will prepare a Physician Panel Case Index and refer it, along with the copy of the file, to the PPA.

a. Physician Panel Case Index. For each case referred to a Physician Panel, the CM must prepare a Physician Panel Case Index (Exhibit 12). It is to include certain information that will assist a panel member in making a determination concerning the claimed illness. For each item, the CM must identify the page number in the copied file that references the information provided.

- (1) Employee Name;
- (2) Employee Date of Birth;
- (3) Gender;
- (4) Social Security Number;
- (5) Employment Facility Name;
- (6) Occupation and job description;

- (7) Dates of Verified Employment; and
- (8) A list of each claimed illness or symptom.

Exhibit 1 - Claimant Contact Letter**DOE**

**Energy Employees Occupational Illness
Compensation Program Act (EEOICPA)
Part D-DOE Worker Compensation
Assistance Program**

**U.S. Department of Energy
Office of Environment, Safety
and Health
Office of Worker Advocacy**

DATE

File Number:

Employee Name:

APPLICANT NAME
123 ELSEWHERE LANE
WASHINGTON D.C. 12345

Dear Mr. Somebody:

I am writing in regard to your application to the Department of Energy (DOE) for assistance under the Energy Employees Occupational Illness Compensation Program (EEOICPA). The DOE Office of Worker Advocacy (OWA) will help you prepare a case for review by a Physicians Panel who will be deciding whether or not your claimed illness was caused by exposure to a toxic substance at a DOE site.

Option 1 – I appreciate your taking the time to discuss your application with me. Per our conversation, I have enclosed documents that the OWA needs to process your case.

OR

Option 2 - I am the Nurse Case Manager who is processing your application. I recently reviewed your case file and found that some necessary documentation is missing. Therefore, I have attached documents that you need to complete and return to the OWA as soon as you are able. Please complete the items indicated below and return them to the OWA at the address provided.

**CONTINUE FOR THE REMAINDER OF THE LETTER WITH THE
FOLLOWING (DELETE ITEMS THAT ARE NOT BEING REQUESTED):**

- ☐ Permission to release your medical information from the following individuals or institutions. Please sign and date each form.
- [Insert name of individual/group/institution]
 - [insert name of individual/group/institution]
 - [Insert name of individual/group/institution]

- ☐ Supplemental Authorization for Release of Case Information, form DOE F 350.2.
- ☐ Please complete the form including your name, date, and signature.
- ☐ OTHER: _____

Please return any requested documents to the following address:

**Office of Worker Advocacy (EH-8)
Office of Environment, Safety and Health
U.S. Department of Energy
Room 1G080
1000 Independence Ave., SW
Washington, DC 20585**

ATTN: Claims Processing/[insert Case Manager's name]

If it is more convenient for you, you may also deliver your reply to the Resource Center in your area. The nearest Resource Center to you is in **(insert city)** and may be reached at **(insert toll-free phone number)**. They will forward the documentation to me.

The documentation being requested will help develop your claim and make the most complete case for the Physicians Panel. We request that you complete and return the documentation within 30 days. If we have not received a reply after 30 days, your case will proceed with the documentation that is available.

Thank you for your attention to this matter. If you have any questions or comments, you can contact me directly at the OWA toll-free number 1-877-447-9756.

Sincerely,

Nurse Case Manager

**Exhibit 2 - Establishment of Deceased Employee Estate
Management Authority Letter**

To Be Supplied

**Exhibit 3 - Employment Verification Evidence Request
Letter**

To Be Supplied

Exhibit 4 - Document Acquisition Request

Date:

To:

From:

Claims Processing – L'Enfant Plaza

DOE ES&H Office of Worker Advocacy (EH-8) Rm 1G080

1000 Independence Ave SW

Washington, D.C.



Please provide the requested information on the named individual. {Attached is a signed consent for the release of information from the applicant. If an employment verification form is required, the applicant's work history and verification form is attached for you to complete.} **Please provide documents required or update on processing of request 60 days from receipt.**

EMPLOYEE INFORMATION	
<div> <div>Last Name</div> <div>First</div> <div>MI</div> </div> <div> <div>_____</div> <div>_____</div> <div>_____</div> </div>	
<div> <div>Social Security Number</div> <div>Date of Birth (MM/DD/YYYY)</div> </div> <div> <div>_____</div> <div>_____</div> </div>	
DOE Facility	
DEPARTMENT OF ENERGY OPERATIONS CENTERS	Badge Number, if known: _____ <input type="checkbox"/> Unknown
<input type="checkbox"/> Employment Verification <input type="checkbox"/> Occupational Medical Records <input type="checkbox"/> Job Description <input type="checkbox"/> Radiological Dose Records <input type="checkbox"/> Employee-Specific Accident Reports (Radiological or Chemical) <input type="checkbox"/> Other: <div> 1) _____ 2) _____ 3) _____ </div>	<input type="checkbox"/> Employee Specific Industrial Hygiene Data <input type="checkbox"/> Documents related to exposure to the following agents: <div> 1) _____ 2) _____ 3) _____ </div> <input type="checkbox"/> Verification supporting use of Personal Protective Equipment (PPE)

Comments:

Exhibit 5 - Department of Energy Employment Verification

INTERNAL DOE USE ONLY

DOE



**Department of Energy
Employment Verification
The Energy Employees Occupational
Illness Compensation Program Act—Part D-
DOE State Worker's Compensation Assistance**

This form is to be used by the Department of Energy to verify the employment history of an individual named in a claim for compensation assistance under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). The completed form along with any attachments should be submitted to the Office of Environment, Safety and Health, Office of Worker Advocacy, EH-8, U.S. Department of Energy, 1000 Independence Ave. S.W. Washington DC 20585, Attn: Claims Processing/Employment Verification. **Please provide documents required or update on processing of request 60 days of receipt.**

Individual Named As Energy Employee

Social Security Number: |_|_|_|-|_|-|_|_|_|_|

Date of Birth:

Badge Number (if known) _____

Name: _____
Last First M.I

Maiden/Formal Name: _____

Home Address: _____

Phone No (Day) _____ (Evening) _____

Employment Verification

The above individual reports to have been an employee of the Department of Energy, predecessor agency, contractor or subcontractor company(ies). To proceed with review of the claim under subtitle D of EEOICPA, the Department of Energy, Office of Worker Advocacy needs to verify the employment history of the named individual and obtain response to the following please refer to the attached Applicant Work History for employer and date information. Please list all Dates of employment and Job title for the applicant:(if necessary, use additional sheets of paper following same format)

<u>Employer/Facility</u>	<u>Dates of Employment (include start and end dates)</u>	<u>Job Title (if available)</u>
---------------------------------	---	--

1.

2.

3.

4.

Department of Energy Representative Signature

Name: _____ Title: _____

DOE Operations Office: _____

Phone No: _____

Signature: _____ Date: _____

Exhibit 6 - Form 350.5 Employment Affidavit**Employment Affidavit**

Energy Employees Occupational Illness
Compensation Program Act Part D-
DOE State Workers' Compensation
Assistance Program

U.S. Department of Energy

Office of Environment Safety and Health
Office of Worker Advocacy

Instructions


This form is used to affirm the employment history of a living or deceased Department of Energy (DOE) contractor employee who applied to the DOE for state workers' compensation assistance under Part D of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). The form is an acceptable format for providing an affidavit in support of an otherwise unsupported work history and can be filled out by anyone with knowledge of a covered employee's work history. The named survivor or employee has named you as an individual who could assist in verifying their employment history. Please fill out the form to the best of your ability. If you require additional space to provide comments, attach a signed supplemental statement. **Mail the completed, signed form to: Office of Worker Advocacy, Office of Environment, Safety and Health, L' Enfant Plaza, Suite 800, Washington D.C. 20585 Attn: Claims Processing/Work Affidavit.** If you have questions please call the Office of Worker Advocacy toll free at 1-877-447-9756.


OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 30 minutes, including time for reviewing instructions, searching existing data sources, gathering data needed, and completing and reviewing the collection of information. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Office of Records and Business Management (IM-11), U.S. Department of Energy (OMB 1910-5120), Washington, D.C. 20585 and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-5120), Washington, D.C. 20502.

1. Name and Address of the Person Completing Affidavit

<p>NAME: _____ Last First M.I.</p> <p>ADDRESS: _____</p> <p>CITY: _____ STATE _____ ZIP CODE _____</p> <p>PHONE NUMBER: _____</p>
<p>2. Affirming the Employment History of the Following Person:</p>
<p>NAME: _____ Last First M.I.</p> <p>MAIDEN NAME OR ALIAS USED WHILE EMPLOYED: _____ Last First M.I.</p> <p>ADDRESS: _____</p> <p>CITY: _____ STATE _____ ZIP CODE _____</p> <p>PHONE NUMBER: _____</p>
<p>3. Relationship Between You and the Named Employee</p>

<ul style="list-style-type: none">• Spouse • Son/Daughter • Parent • Grandparent • Friend • Work Associate• Other: _____ 		
4. Employment History of the Named Employee		
<p>Please list in chronological order, starting with the most recent, your knowledge of the employment history of the named employee in box 2. Please provide as much information as possible on the dates and the name and location of the employer.</p>		
EMPLOYER 1		
Dates of Employment	Start Date / /	End Date / /

Employer Name and Location		
		
Description of Work Performed by the person named box 2		
Explain how you know the person named in box 2 worked for the employer		
EMPLOYER 2		
Dates of Employment	Start Date / /	End Date / /
Employer Name and Location		
Description of Work Performed by the person named box 2		

Explain how you know the person named in box 2 worked for the employer		
EMPLOYER 3		
Dates of Employment	Start Date / /	End Date / /
Employer Name and Location		
Description of Work Performed by the person named box 2		
Explain how you know the person named in box 2 worked for the employer		
EMPLOYER 4		
Dates of Employment	Start Date / /	End Date / /
Employer Name and Location		
Description of Work Performed by the person named box 2		
Explain how you know the person named in box 2 worked for the employer		
5. DECLARATION OF PERSON COMPLETING FORM		
<p>Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain assistance as provided under EEOICPA Part D or who knowingly accepts assistance or compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by fine or imprisonment or both.</p> <p>I affirm that the employment history provided on this form is accurate and true.</p> <p>Signature _____ Date _____</p>		

Exhibit 7 - Form 350.7 Occupational History

**Occupational History Notification
Energy Employees Occupational Illness
Compensation Program Act (EEOICPA)
Part D- DOE Worker Compensation
Assistance Program**

**U.S. Department of Energy
Office of Environment, Safety and Health
Office of Worker Advocacy**

OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 30 minutes per response, consisting of a telephone interview in which the interviewer will fill in the form based upon the applicant's response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Records and Business Management (IM-11), U. S. Department of Energy (OMB 1910-5120), Washington, D. C. 20585 and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-5120), Washington, D. C. 20503.

Dear

As discussed when we spoke to you over the phone, Case Manager _____ from DOE's Office of Worker Advocacy will be calling you on _____ (date) at _____ AM/PM. The purpose of this call is for the Case Manager to obtain work and environmental history from you in support of your application for review by the DOE physician panels. The Case Manager will ask you the questions during the call. The time required for the interview will be approximately 45 minutes.

As a part of this history, the case worker will ask you about all jobs you had at any DOE sites including buildings and work activities, hazards, exposures, hobbies, personal habits, and any other work you had outside DOE work ("moonlighting").

If you have questions, please call our toll free number 1877-447-9756 and ask for _____.

The interview on _____ at _____ is scheduled for or on
behalf of :

Name _____
Last first middle initial

Former Name (i.e., maiden name/legal name change/other)

Social Security Number _____ - _____ - _____

Date of Birth _____ / _____ / _____

Part 1 Instructions to Interviewer:

- Please fill in one copy of Part 1 for each job that the worker had at any DOE site.
- **Exception:** *If the worker was employed at any of the following sites, use the site-specific Former Worker Program work history form for that site in place of Part 1 of this form: Burlington IAAP, Fernald (Plant 1/Sampling Plant only), Hanford (Building Trades only), Nevada Test Site, Oak Ridge (Construction workers only), and Savannah River (separate forms for Building Trades and Production Workers).*
- **If the worker was employed at Los Alamos, use this general form , but supplement it with any appropriate questions from Part D of the LANL Former Worker Program history form. (Part D of that form includes exposure-specific questions to explore possible beryllium, lead, asbestos and ionizing radiation exposures at LANL).**
- Note that parts 2 and 3 of this form should always be filled in, regardless of whether a site specific form is used in lieu of Part 1 of this form.

Name of DOE Site _____

Location of site: _____
City/Town State

Name of Contractor	Dates employed by contractor (From-To)

Job Title _____ Dates on this job: From _____ To _____
Month/Yr Month/Yr**Where worked**

Facility, Area, Production Area, Plant or Production Line _____

Building/buildings Name or Number _____

Did applicant wear a dosimetry badge or TLD to monitor radiation exposure?

☐ Yes Badge number, if known _____☐ No**Describe Job duties:**

Workplace exposures on this job: (Use as many copies of this page as needed to record all exposures described by the applicant).

Interviewer: For each exposure, ask, "Please tell us what hazards you were exposed to on this job. You may wish to refer to the list in Part 4 of this form. Note that this list is just a sample, and some of your exposures may not appear on the list." Ask the employee about each exposure, and record the following info:

Exposure level: "Dir" (for "Direct")= Worked directly with the hazard; "Near" = Worked near but not with the hazard; Brief= briefly entered area where hazard was present; spent most of workday at other locations.

Exposure Frequency: D= Every day or almost every day; W= One to three times per week; Occ= Occasionally—up to a few times per month; Rare= Rarely—up to a few times per year. Once= Single exposure associated with an accident, spill, explosion or other unusual circumstance.

Exposure Location: Building, production line, facility, area or production area.

Yr Exp. Started, Yr Exp. Ended: Year exposure started and ended

Caused symptoms or illnesses? Y/N. If yes, how often did they occur? D, W, Occ., Rare, Once (as above). If symptoms, please describe. If additional space is needed, use "Additional Exposure Information" space on the next page.

Believe exposure related to claimed condition? If yes, explain why on next page.

Name of Hazard	Exposure Level Dir/Near/ Brief	Exposure Frequency D/W/Occ./ Rare/Once	Exposure location, if you recall (Building or facility)	Yr. Exp. Started	Yr. Exp. Ended	Caused symptoms or illness? (Y/N); if symptoms, how often: D/W/Occ/ Rare./Once	Believe exposure related to claimed condition? (Y/N)

Additional Exposure Information: Record here any additional information provided by the applicant regarding any of the exposures listed in the table on the prior page, including details about any accidents, spills, or accidental releases resulting in exposures. Also record details about any symptoms or illnesses that the applicant associates with the exposures. Please indicate which exposure or exposures are being referenced.

Exposure(s) Applicant believes to have caused the claimed condition(s): Record here applicant's explanation of why he/she believes one or more of the exposures listed in the table on the previous page caused the claimed condition, including any evidence cited by the applicant. Please indicate which exposure or exposures the applicant is referring to, and which condition or conditions the applicant believes to have been caused by a given exposure or exposures.

Exposure monitoring: Did applicant's employer do any monitoring for hazards in your workplace?

☐ Yes ☐ No If yes, what hazards were monitored? (example: air monitoring for asbestos, lead, mercury, organic vapors)

Sick Co-workers: Does applicant know of any co-workers with health problems similar to the applicant's?

☐ Yes ☐ No If "yes", please indicate how many co-workers, their job titles, job duties and locations, as well as their exposures and the symptoms or health problems they experienced. Include dates:

Exposure controls: Check any personal protective equipment used by the applicant, and any exposure controls in the applicant's workplace.

Protective equipment you used

<input type="checkbox"/> Gloves	<input type="checkbox"/> Dust mask	<input type="checkbox"/> Air purifying respirator	<input type="checkbox"/> Air supplying respirator
<input type="checkbox"/> SCBA respirator	<input type="checkbox"/> Coveralls or apron	<input type="checkbox"/> Safety Glasses	<input type="checkbox"/> Other (list)

Exposure controls in use

<input type="checkbox"/> General ventilation	<input type="checkbox"/> Spot ventilation	<input type="checkbox"/> Glove Box	<input type="checkbox"/> Fume Hood
<input type="checkbox"/> Other (describe)			

Medical surveillance: Did applicant receive any examinations or tests (blood, urine, x-rays, scans) to monitor exposure to hazards?

☐ Yes ☐ No If yes, please indicate type and frequency of exams/test, and what hazards addressed by the exams/tests, if known. Also, any abnormal findings.

PART 2: Non-DOE Work History**Instructions to Interviewer:**

- Fill in one copy of Part 2 for each job the applicant had that was not at a DOE site, including periods where the applicant was self-employed.
- Include only jobs held for at least 1000 hours (e.g.; at least 6 months of full-time work)
- Include full time jobs, part time jobs, and moonlighting (work done for money after hours or on days off from a regular job).

Dates of Employment	From (month/year)	To (month/year)
Name of employer (write "self" if self-employed)	City	State
Type of industry (example: Construction, Hospital, Steel Mill)		
Was this job _____ Full time? _____ Part time? Number of hours per week _____		
Was this a moonlighting job? _____ Yes _____ No		
Job duties		
Exposures (applicant can refer to the list in Part 4 to help refresh memory). Indicate if exposure was Direct (Dir)—worked directly with hazard; Near — worked near the hazard; Brief— Briefly entered area where the hazard was present, but mostly worked at a different location.		

Part 3: Non-Occupational Exposures**Hobbies and Volunteer Work** (check any that apply)☐ Gardening/
farming☐ Carpentry/
Woodworking☐ Cutting wood
with chain saw☐ Removing old
paint☐ Indoor firing
range☐ Bullet making☐ Auto mechanics☐ Auto body work☐ Model plane/car
building☐ Melting metal for
any purpose☐ Furniture
refinishing☐ Pottery/Ceramics☐ Volunteer fire
fighting☐ Stained glass work☐ Jewelry making☐ Darkroom work☐ Other hobby
(describe):

- List any chemicals or hazards that applicant believes to have been exposed to while doing hobbies or volunteer work. Applicant may wish to review the list of hazards in Part 4 as a memory jogger. (Examples of hazards associated with hobbies: insecticides, herbicides, lead, oil-based paints, paint thinners, styrene body filler, airplane glue, epoxy, welding fume, sawdust, smoke, auto exhaust):

- Did the hobby ever result in illness or injury? ☐ Yes ☐ No
If "Yes", please describe:

Smoking/Alcohol History

Has applicant ever smoked? ☐ Yes ☐ No

If "Yes":

Age started smoking _____ Age stopped smoking _____ ☐ Still smoking

Average number of cigarettes per day _____

Average number of cigars per day _____

If pipe smoker, average ounces of pipe tobacco per week _____

Uses/used chewing tobacco or snuff? ☐ Yes ☐ NoDid applicant ever drink alcoholic beverages? ☐ Yes ☐ No

If "Yes":

Age began _____ Age stopped _____ ☐ Still drinks alcoholic beverages

Average number of alcoholic drinks that applicant has consumed in a week during adult life:

(including beer, wine, liquor, mixed drinks)

Record here Any Additional Information regarding jobs or occupational/environmental exposures:

Part 4: Examples of Hazards at DOE Facilities and other Workplaces
(note: these are only examples. Not all hazards are on this list)

Dusts and fibers

Asbestos
Beryllium
Cement dust
Coal dusts
Diatomaceous earth (Hi Temp insulation)
Fiberglass
Fly ash; soot
Graphite dusts
Mineral wool
Sandblasting
Sawdust
Silica

Metals

Barium
Boron
Bronzes
Cadmium
Carbon steel dust
Chromium
Copper
Gilsonite
Inconel (nickel & chromium alloy)
Lead
Lithium and lithium compounds
Manganese
Mercury
Metal shavings
Nickel and nickel compounds
Nickel carbonyl ($\text{Ni}(\text{CO})_4$)
Ruthenium tetroxide
Selenium
Stainless steel dust
Thorium
Titanium
Vanadium
Welding fume
Zinc (galvanized metals)
Zirconium/Zircalloy

Solvents

Acrylonitrile
Alcohol/alcohols
 Denatured alcohol
 Ethyl alcohol/
 ethanol/grain alcohol
 methyl alcohol/
 methanol/wood alcohol
 propanol/propyl alcohol
 isopropyl alcohol
 butanol
Amercoat
Asphalt
Benzene (benzol)
Carbon Tetrachloride
Coal tar/Petroleum (bitumens)
Cutting oils
Cyano-acrylates
Diesel fuel
Dioxane
Dodecanol
Epoxy paints
Eposy resins
1,1-Dichloroethane
1,1-Dichloroethylene
Gasoline
Glycol ethers
Heating oil
Hexane/n-Hexane
Kerosene, NPH
Lacquers
Methyl ethyl ketone (MEK)
Methylnapthalene
Methylene chloride
Naptha
Nitrobenzene (Nitrobenzol or Oil of mirbane)
Neoprene; rubber coatings
Paints or coatings (solvent based)
PCB's (Polychlorinated biphenyls/Arochlor)
Perchloroethylene (PERC; PCE; PER-Clean; tetrachloroethylene)
Rubber cement/Airplane glue
Styrene (monomer; not polystyrene)
Stoddard solvent
Tar (roofing tar; coal tar)
TDI (Toluene di-isocyanate)
Thinners, cleaners, solvents
Toluene
Tribertyl phosphate
Tributyl phosphate

Trichloroethane (TCA or methylchloroform)

Trichloroethylene (TCE; TRI-Clean)

Vinyl chloride (monomer; not PVC)

Xylene

Gases

Chlorine gas

Engine exhaust, diesel exhaust

Freons

HF gas (hydrofluoric acid ; hydrogen fluoride)

Hydrogen sulfide (H₂S)

Percolene

Phosgene

Stack gas

Acids/caustics/reducing and oxidizing agents

Acetic acid fumes

Ammonia

Chlorine trifluoride (Treatment gas)

Chromic acid

Hydrofluoric acid (hydrogen fluoride; HF)

Nitric acid

Oxalic acid

Phosphoric acid

Sodium dichromate

Sulfuric acid (battery acid)

Explosives and explosive components

Azides (Sodium azide)

Black powder

2,4-Dinitrotoluene/Dinitrotoluene/DNT

High Explosive Compositions

HMX

Octol

PETN

RDX

Styphnates (Trinitroresorcinol or Dihydroxy-trinitrobenzene)

Tetryl (N-Methyl-N,2,4,6-tetranitroaniline)

Tetrytol (75% Tetryl, 25% TNT)

1,3,5-Trinitrobenzene

TNT (Trinitrotoluene)

Tritonal

Other

Benite (aka 1,2,4 Triazole)
Bromine Trifluoride
Cement (wet)
Hydroxylamine sulfate
Hydrazine
MOCA (4,4-methylene bis[2-chloroaniline])

Pesticides

Insecticides
Herbicides
Rodenticides
Aldicarb
Aldrin
Arsenicals
Carbamates
DBCP (dibromochloropropane)
Dieldrin
Dursban
EDB (ethylene dibromide)
2,4-D
2,4,5-T
Chlorpyrifos
Chlordane
DDT
Pyrethrins
Pyrethrum

Radiation; Radioactive substances

Ionizing radiation
Beam line radiation
Reactor radiation
Brown oxide (UO₂)
Observed above-ground
nuclear test/shot
Fallout from above-ground test
Fallout vented from underground test
Green salt (Uranium tetrafluoride/UF₄)
Orange oxide (UO₃)
Oralloy (HEU/Highly enriched uranium)
Plutonium (fluoride or oxide)
Polonium-210

Radioactive iodine
Radium-226/228
Radon gas
Technecium
Tritium
Uranium or Uranium Oxide
Uranium tetrachloride (UCl_4)
Uranyl nitrate hexahydrate
Uranium hexafluoride (UF_6)
Uranium tetrafluoride (UF_4) UO_2F_2 (white material)
Yellowcake (uranium octaoxide/ U_3O_8)

Exhibit 8 - Case Manager Summary

To Be Supplied

Exhibit 9 - Notice of EEOICPA Case Filing & Employer Affidavit**Notice of EEOICPA Case Filing
& Employer Certification**

Energy Employees Occupational Illness
Compensation Program Act Part D
DOE State Workers' Compensation
Assistance Program

U.S. Department of Energy

Office of Environment, Safety and Health
Office of Worker Advocacy
1000 Independence Avenue, S.W.
Room 1G-080
Washington, D.C. 20585

An EEOICPA application for a Physician Panel Review has been filed regarding the following employee. The applicant has met the eligibility criteria, and the Office of Worker Advocacy (OWA) has obtained sufficient personnel, medical, and exposure data to refer this case to a physician panel. The applicant has identified you as the employer of record for this application. You have the opportunity to provide additional information for consideration by the panel. Should you choose to provide additional information, you have up to 15 working days from receipt of this notice to provide OWA with information you deem relevant. Note that you are not required to provide any additional information to OWA. Also, note that a prompt response is requested to enable OWA to send this case for panel review.

APPLICANT INFORMATION

APPLICANT NAME:

DOB:

APPLICANT SSN:

DATES OF EMPLOYMENT:

ILLNESS OR DIAGNOSIS CLAIMED: -

DATE OF DIAGNOSIS/ONSET OF ILLNESS :

CLAIMED EXPOSURE :

SITE OF CLAIMED EXPOSURE :

OWA CASE MANAGER :

E-MAIL :

Privacy Act

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Energy Employees Occupational Illness Compensation Program Act-Part D (P.L. 106-398) (EEOICPA) authorizes the collection of the information on this form; (2) The Office of Worker Advocacy of the U.S. Department of Energy, which administers the program, may disclose information to Federal agencies or private entities which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider other relevant matters; this is the principal purpose for which this information is collected; (3) information may be disclosed to federal agencies or entities whose mission entails reviewing or managing workers' compensation claims or administering other benefits programs; (4) information may be disclosed, as a routine use, to physicians and other health care providers for use in providing treatment or medical rehabilitation, making evaluations for the Office of Worker Advocacy, and for other purposes related to the medical management of the claim; (5) furnishing this information is voluntary, but failure to disclose all requested information may delay the processing of the claim or may result in an unfavorable decision. This notice applies to all forms requesting information that you might receive from the Office of Worker Advocacy in connection with the processing and adjudication of the claim you filed under the EEOICPA.

PHONE _____

EMAIL _____

Exhibit 10 - Applicant Cover Letter

To Be Supplied

Exhibit 11 - Statement by Applicant Reviewing RecordDOE F 350.8
(08-02)OMB Control No. 1910-5120
Expiration Date: 8/31/05

**Statement by Applicant Reviewing the Record
on an Office of Worker Advocacy Application
Energy Employees Occupational Illness Compensation
Program Act (EEOICPA)
Part D DOE State Workers' Compensation Assistance
Program**

**U.S. Department of Energy
Office of Environment, Safety and Health
Office of Worker Advocacy**

Instructions

This form is used to acknowledge or waive review of a file and agreement that a complete set of information provided by the applicant (a living or deceased Department of Energy (DOE) contractor employee) who applied to the DOE for state workers' compensation assistance under Part D of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) is contained in the case file that will be sent to the Physician Panel. Please read and sign the form if you agree that all documents you provided are present. If you require additional space to provide comments, attach a signed supplemental statement. **Mail the completed, signed form to: Office of Worker Advocacy, Office of Environment, Safety and Health, U.S. DOE, 1000 Independence Ave., S.W. L'Enfant Plaza/ Rm 1 G-080, Washington D.C. 20585 Attn: Claims Processing/Case Certification.** If you have questions, please call the Office of Worker Advocacy toll free at 1-877-447-9756.

OMB Burden Disclosure Statement

Public reporting burden for reviewing the records in this collection of information is estimated to average 30 minutes, including time for reviewing instructions, and completing and reviewing the collection of information. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Office of Records and Business Management (IM-11), U.S. Department of Energy (OMB 1910-5120), Washington D.C. 20585 and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-5120), Washington D.C. 20502.

I, _____, an applicant under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), certify that I have read, understand and agree with the following statements:

- ☐ I am not aware of any additional information available to me that may be relevant to OWA in completing an application for Physician Panel review to determine whether exposures while working as a DOE contractor employee caused the claimed illness(es)
- ☐ I have provided additional records for consideration by the Physician Panel. These records are: _____

The Office of Worker Advocacy should forward the records to the Physicians Panel which will provide an recommended decision as to whether exposures during my employment as a contractor employee at DOE may have caused the claimed illness(es).

Signature _____ Date _____

Notice: Any person who knowingly makes false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided under EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both. I affirm that the information provided on this form is true.

Exhibit 12 - Physician Panel Index

To Be Supplied

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1. Purpose. The purpose of this section is to describe the process for obtaining the opinion of a physician panel.

2. Physician Panel Roles and Responsibilities.

Physician Panel staff is responsible for assigning cases to selected panels, communicating with panel members, and handling the physician panel report.

a. Physician Panel Administrator (PPA) manages case referrals to existing panels or assigns new panels as the need arises. Any conflict of interest is identified and corrected. He or she monitors files submitted to the panel to ensure timely responses and addresses any concerns raised by panel members.

b. Physician Panel Member is responsible for an objective analysis of documentation submitted with an OWA case file for a causation determination. Any conclusion of the physician panel regarding the causal relationship between a claimed illness and toxic exposure is based upon an impartial assessment, sound judgment, and appropriate medical rationale.

c. OWA Physician is responsible for general oversight of the Physician Panel operation.

3. Selection of Panel Members. The National Institute for Occupational Safety and Health (NIOSH) is responsible for the designation of physicians eligible to serve as panel members. A physician panel member must be a board certified medical doctor with knowledge of and experience in occupational medicine. A list of eligible panel physicians is provided to OWA by NIOSH on a periodic basis. Once a physician has been deemed eligible, OWA will assign physicians to serve on particular panels.

a. When a new doctor is identified as an eligible panel member, the PPA is to submit a letter to the physician. The letter should acknowledge the physician's selection to participate as a panel member. Attached to the letter should be a copy of the OWA Procedure Manual and the Confidentiality Agreement and Conflict of Interest Reporting form (Exhibit 1). This form is to be signed and returned by the assigned physician prior to assignment to a panel.

b. Assigning physicians to a Panel. After a physician has returned a completed Confidentiality Agreement and a Conflict of Interest form, they can be assigned to a panel. The PPA is responsible for all physician panel assignments.

- (1) There are to be three physicians per panel.
- (2) The Physician Panel assignment must be based upon a random selection process.
- (3) Each panel should generally be assigned cases for certain DOE facilities. The PPA has full discretion over the type of case that is referred to the panel, but it is preferable to submit cases for a particular facility to a panel familiar with the particular DOE facility.

c. Identifying the Lead Physician. The panel is to select the Lead Physician. The Lead Physician will oversee the activities of the panel, moderate conferences with other panel members, and coordinate the preparation of the Physician Panel report. The determination of the Lead Physician is completely at the discretion of the panel members. However, upon case assignment, a panel must notify the PPA of the name of the Lead Physician.

4. Preparing a File for Review by the Physician Panel. Each physician assigned to a panel is to be sent a physician panel referral package. The package will include the following items:

- a. A cover letter requesting review of the file for a determination of causality and name and contact information for the other panel members;
- b. A page numbered copy of the entire case file including a printout of the CMS case notes;
- c. Physician Panel Case Summary;
- d. Facility Profile, if available; and
- e. Instruction for physician panel (Exhibit 2).

5. Case Review by Panel Member. Each physician assigned to a panel is to review the evidence submitted with an application to determine if it is of sufficient probative value to conclude each claimed illness is as likely as not to have been aggravated, contributed to, or caused by exposure to toxic materials while employed at a DOE facility. The Physician Panel only considers exposures during an eligible period of contractual or subcontractual employment at a DOE facility. The conclusion of the physician must be unequivocal and substantiated by appropriate medical rationale.

a. Conflicts of Interest. Any physician who declares a conflict of interest with a case including, personal knowledge of the applicant, association with the DOE facility, or any other reason of perceived conflict, is to be removed from the panel and replaced by another physician.

b. Confidentiality. Panel members are responsible for maintaining the confidentiality of applicant records at all time. Records are to be maintained in secured locations while in the possession of the panel members. Case reviews and case specific discussions are conducted in private to prevent the disclosure of personal applicant information. Documentation from the file is not to be released to any third party unless specifically authorized by the PPA. The case file and its contents are returned to the OWA Program Office at the conclusion of the physician panel review.

6. Panel requests for Additional Information. In certain situations, a panel member may feel that additional information must be obtained for a determination to be rendered. Any request by a panel member is to be coordinated by the PPA. Panel members may request only information directly pertaining to the case at hand. The regulations provide a variety of methods the physician may employ to obtain additional information. They are as follows:

- a. Requesting an interview with applicant;
- b. Requesting additional medical documentation from the applicant;

- c. Requesting additional employment information from the DOE or its contractors;
- d. Medical consultations; or
- e. Obtaining medical literature of other pertinent scientific literature.

7. The Physician Panel Report. The Physician Panel Report describes the findings of the panel in regard to whether or not each claimed illness is or was aggravated contributed to or caused by exposure to toxic material (Exhibit 3). The report is prepared under the direction of the Lead Physician and incorporates the findings of all three members of the panel. The ultimate conclusion of the report must be based on the majority opinion of the panel members reviewing the case. While differences of opinion may be referenced in the report, the Lead Physician is responsible for producing a report that provides a single, unequivocal opinion in regard to causation for each claimed illness. The final Physician Panel Report is to be signed by each member of the panel and returned to the PPA. A period of thirty working days from the date of panel case assignment is granted for the submission of a panel report. Extensions to the time frame are permissible, but at the discretion of an OWA physician. The Physician Panel report is required to contain particular information.

- a. Employee Name, age, sex, and SSN.
- b. Occupation Title(s).
- c. Employment Facilities where employment occurred.
- d. Employer Name.
- e. Claimed Illnesses due to toxic exposure.
- f. For each claimed illness, the diagnosis established in written record or description of the symptomatology.
- g. For each claimed illness, date of onset.
- h. Date of death, if applicable.

- i. For each claimed illness or symptom, an unequivocal opinion as to whether or not the illness was aggravated, contributed to or caused by exposure to toxic material while on the job.
 - j. The rationale applied to reach the conclusion offered.
 - k. Whether or not the physician panel is unanimous in its finding, the opinion of each panel member in support of or against the offered conclusion.
 - l. Any evidence that contradicts the conclusion of the panel and the basis for it being found not persuasive.
 - m. List of any information or materials outside of the case file referenced by the panel members to reach the conclusion offered.
 - n. Additional comments.
8. Submission of the Physician Panel Report to OWA. Each member of the panel is to sign and date the report. The panel report along with the paper file is to be returned to the OWA Program Office to the attention of the PPA.

**Exhibit 1 - Confidentiality Agreement and Conflict of
Interest Reporting Form**

**U.S. Department of Energy
Office of Worker Advocacy**

Conflict of Interest Reporting and Confidentiality Agreement

Physician Name:

SS#:

Please read and sign the form below and return to the Physician Panel Administrator.

Conflict of Interest

As stated in Section 852.15 of the Physician Panel Rule, there is a potential conflict of interest if a panel member has a past or present relationship with an applicant, an applicant's employer, or an interested third party that may affect the panel member's ability to objectively review the application, or that may create the appearance of a conflict of interest. I will review all case files upon receipt to determine whether I have any conflict of interest. If there is a conflict of interest, then I will immediately cease review of the application and notify the Office of Worker Advocacy and await further instruction from them.

I hereby certify that I will notify the Office of Worker Advocacy immediately if I have a conflict of interest with any application as described above. I will cease review of such case(s) until I receive further instruction from the Office of Worker Advocacy.

Physician completing form (print name)

Signature

Confidentiality Agreement

As stated in Section 852.14 of the Physician Panel Rule, members of the panel must maintain the confidentiality of applicant records, keep them in a secure and locked location, and destroy the documents upon the completion of panel deliberations. I will conduct all case reviews and conferences in private to prevent the disclosure of personal applicant information to any individual who has not been authorized to access this information. Information will not be released to a third party unless authorized in writing by the applicant.

I certify that all employee's case files will be maintained in a confidential manner.

Physician completing form (print name)

Signature

***Please complete and return form to:
Kim McLeod, Physician Panel Administrator
202-287-1883 phone
202-287-1899 fax***

***ES&H, Office of Worker Advocacy
Room 1G-080
1000 Independence Ave. SW
Washington, D.C. 20585***

Exhibit 2 - Physician Panel Instructions

**U.S. Department of Energy
Office of Worker Advocacy****PHYSICIAN PANEL INSTRUCTIONS**

Please read these guidelines carefully before you begin reviewing the enclosed cases!

Actions that must be taken now:

1. Assign one physician to be the lead reviewer for each case. This physician will be responsible for summarizing the panel's findings in the Physician Panel Report.
2. Contact the Physician Panel Administrator by phone, fax, or e-mail, with the following information:
 - a. Confirmation of receipt of the cases
 - b. Name of the lead physician for each case
3. Review the names of the patient(s) and facility(ies) to ensure that you do not have a conflict of interest that precludes your involvement in any of the cases. Fax the conflict of interest and confidentiality declaration to the Physician Panel Administrator at 202.287.1899.

General guidelines:

1. The panel has 30 days to complete its deliberations and file the Physician Panel Report. This is a firm deadline that cannot be extended unless additional information is required for the panel to make its determination.
2. The Office of Worker Advocacy (OWA) has encouraged the applicants to provide as much information about their conditions as possible, but there will inevitably be variations in the amount of data available for each case. The panel is encouraged to make their best determination on the basis of the information provided by the applicant. If additional information is necessary to make a determination, a "Request for Additional Information" form can be submitted to the OWA.
3. Similarly, the OWA has also attempted to collect as much data as possible about the applicant's work environment. Given the time elapsed in some of the cases, however, it is often difficult or impossible to provide detailed exposure records. In these cases, the panel should use its professional expertise and best judgment to reach a decision based upon the information available.
4. As the panel conducts its deliberations, it should keep the criteria for its ruling in mind, as the threshold for determining causation may be **less stringent** than the panel is accustomed to: *"A Physician Panel must determine whether the illness or death arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility on the basis of **whether it is at least as likely as not** that exposure to a toxic substance at a DOE facility during the course of employment by a DOE contractor was a significant factor in aggravating, contributing to or causing the illness or death of the worker at issue."*

5. Members of the panel must maintain the confidentiality of applicant records, keep them in a secure, locked location, and destroy the documents upon the completion of panel deliberations. All case reviews and conferences must be conducted in private to prevent the disclosure of personal applicant information to any individual who has not been authorized to access this information. Information must not be released to a third party unless authorized in writing by the applicant.

Instructions for completing the Physician Panel Report Form:

The Panel Report must follow this format. All questions must be answered, with explanations where indicated below. Use additional pages as necessary when responding to any question, but make sure that each additional page is labeled with the name of the applicant, social security number, and question number.

Specific instructions by question number:

- 1. Diagnosis (summarize symptoms if no diagnosis made):**
List the diagnosis(es) that are being claimed. If a diagnosis has not been made, summarize the symptoms or complaints that the applicant has listed.
- 2. The approximate date of onset:**
The approximate timeframe for the onset of symptoms or diagnosis.
- 3. Date of death (if applicable):**
- 4. Did this illness arise out of and in the course of employment by a DOE employer and exposure to a toxic material at a DOE facility?**
This determination will be carefully deliberated by the panel and explained in the subsequent questions. The criteria outlined in the rule are as follows: *“A Physician Panel must determine whether the illness or death arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility on the basis of whether it is at least as likely as not that exposure to a toxic substance at a DOE facility during the course of employment by a DOE contractor was a significant factor in aggravating, contributing to or causing the illness or death of the worker at issue.”*

In other words, if the Panel believes that there is **50% or greater likelihood** that the exposure was a significant factor in aggravating, contributing to or causing the illness, then it should render a determination in favor of the applicant.

In order to make this determination, the panel will review all records provided by the program office, and will obtain additional information as needed. This additional information may include medical literature or reports, consultation with specialists, additional information requested from the applicant, and any other information that would assist the panel in making the above determination.

If additional information from the applicant or the facility is necessary, the panel can request such information by completing the “Request for Additional Information” form and forwarding it to the OWA immediately. Examples of such information include: an interview with the applicant, additional medical information, additional information from the employer, consultation with specialists, reports from the medical literature, and other necessary information. Upon receipt of the request, the OWA will then attempt to facilitate the procurement of this information.

5. Provide the basis for this determination.

The panel should explain the rationale for its determination. It should explain the thought process and deliberations that led to the conclusion above. Whenever possible, objective evidence (such as reports or articles from the medical literature) should be specifically cited.

6. Was the panel unanimous in this determination? If not, please list determination made by each panel member.

The rule allows the panel to deliver a determination if two of three physicians are in agreement. For quality assurance, it is necessary to track each physician’s decisions across cases. This information will not affect a physician’s selection for future panels, as that selection is performed at random.

7. Provide any evidence presented that is contrary to the final panel decision, and why the panel finds this evidence to not be persuasive.

Just as the panel must justify its determination in item 5, it must also show that it considered evidence that supports the contrary finding. The type of information included here is similar to that in item 5.

8. List all information and materials obtained by the panel, including consultations with specialists, scientific articles, and the record of any interview with the applicant.

The panel must document the information that was reviewed and considered during its deliberations. This includes information provided by the Office of Worker Advocacy and any additional materials obtained independently by the panel.

9. Provide any additional information that the Program Office should have in order to understand the panel’s deliberations and determination:

Exhibit 3 - Physician Panel ReportOWA PHYSICIAN PANEL REPORT

(This form must be completed)

Name: **Age:** **Sex:** **SS#:**

Occupation(s):

Facility(ies):

Conditions/Symptoms claimed:

For each illness or cause of death considered by the panel, provide the following:

Diagnosis (summarize symptoms if no diagnosis made):

1. The approximate date of onset:

2. Date of death (if applicable):

3. Did this illness arise out of and in the course of employment by a DOE employer and exposure to a toxic material at a DOE facility? This determination should be made on the basis of whether it is **at least as likely as not** that exposure to a toxic substance at a DOE facility during the course of employment by a DOE contractor was a significant factor in **aggravating, contributing to or causing** the illness or death of the worker at issue (see instructions).

- ☐ Yes
☐ No

4. Provide the basis for this determination. For positive determinations, please report the panel's opinion with regard to whether the exposure aggravated, contributed to or caused the illness or death (see instructions):

5. Was the panel unanimous in this determination? If not, please list determination made by each panel member.

6. Provide any evidence presented that is contrary to the final panel decision, and why the panel finds this evidence to not be persuasive.

7. List all information and materials obtained by the panel, including consultations with specialists, scientific articles, and the record of any interview with the applicant:

8. Provide any additional information that the Program Office should have in order to understand the panel's deliberations and determination:

Signed: _____.
EEOICPA Medical Panel Coordinator Date

Signed: _____.
EEOICPA Medical Panel Member Date

Signed: _____.
EEOICPA Medical Panel Member Date

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1. Purpose. The purpose of this section is to explain the actions taken after a Physician Panel report is received by OWA.

2. Post Physician Panel Roles and Responsibilities. The staff handling post physician panel activities is responsible for affirming the finding of the panel, obtaining the signatures of the OWA Director and Assistant Secretary of Energy and advising eligible applicants of the outcome of the Physician Panel review.

a. Post Panel Coordinator (PPC) manages the referral of the Physician Panel Report to appropriate staff members for review and certification. He or she prepares documentation for the case file and transmits the findings of the Program Office to eligible applicants.

b. OWA Physician is responsible for general oversight of the Physician Panel operation. He or she manages the referral process to ensure timely Physician Panel determinations and certifies the findings of the physician panel.

c. OWA Director signs the Notice of Physician Panel Determination and Transmittal. He or she must also certify or decline any Rejection of a Physician Panel Finding issued by the OWA Physician.

d. Assistant Secretary of Energy signs the final decision advising the applicant of the finding of the Physician Panel.

3. OWA Physician Review of Panel Report. Once the Physician Panel Report has been returned to the OWA, the PPA is to register its receipt in CMS and spindle a copy of the report into the case file. The case file is to then be referred to an OWA Physician. The OWA Physician is to review the physician panel report to ensure it completely conforms to OWA requirements.

a. If the report does not appear to satisfy the OWA requirements for a complete response, an OWA Physician is to prepare a memo to the Physician Panel describing deficiency with the panel report and request

correction or clarification. The PPA is then to refer the memo and the case file including a copy of the panel report back to the originating panel for correction or clarification. A cover letter should also be prepared explaining the purpose of the referral and that the panel must respond within five workdays.

b. When the OWA Physician reviews a panel report and considers it a complete response, he or she is to prepare a Recommendation for Acceptance or Rejection of the Physician Panel Finding. The Recommendation for Acceptance or Rejection of a Physician Panel Finding is a memorandum that describes whether or not the OWA Physician concurs with the medical conclusion(s) reached by the Physician Panel. Although the OWA Physician will generally recommend acceptance of the Physician Panel finding, he or she may challenge the finding in certain situations. If the OWA Physician disagrees with the panel determination, he or she may recommend reexamination of the application by the same panel or a new panel. The basis for this recommendation must be outlined in the memorandum. Acceptable grounds for reexamination of the findings of a physician panel include:

- (1) Significant evidence in the case file reasonably establishes a conclusion opposite that of the physician panel;
- (2) New evidence is received subsequent to the Physician Panel review that will likely result in a different determination;
- (3) Evidence is received which shows that a panel member who participated in authoring a report, has a conflict of interest; or
- (4) Reexamination is required to ensure consistency among panel members.

c. The Recommendation of the Medical Director is to be spindled into the file by the PPA as permanent part of the paper file.

4. Handling a Physician Panel Report when Reexamination is Recommended. If the OWA Physician disagrees with the Physician Panel Report and has prepared a Recommendation for Reexamination of the Physician Panel Finding, the case file is to be referred to the OWA Director. He or she will be responsible for reviewing the recommendation of the OWA physician and taking further action.

a. If the OWA Director agrees with the recommendation for reexamination, he or she will certify the finding of OWA Physician and return the case to the Program Office for scheduling of a reexamination of the case file by a new physician panel.

b. If the OWA Director disagrees with the recommendation for reexamination, he or she will not act upon the OWA Physician's recommendation. A brief memo will be prepared, explaining the basis for this decision and the action to be undertaken. The case file will be returned to the Program Office for the action to be undertaken as described in the OWA Director's memorandum.

5. Reexamination of a Case File by a New Physician Panel. When an OWA Physician issues a Recommendation for Reexamination and the OWA Director certifies the finding, it is then necessary to obtain a reexamination of the case file by a new Physician Panel. The PPA will coordinate the referral of the case file to a new Physician Panel. Once a new Physician Panel Report is issued, it will be reviewed by the OWA Physician to determine if it is of such quality that a Recommendation of Acceptance of the Physician Panel Finding can be issued.

6. Handling a Recommended Acceptance by the OWA Physician. After the OWA Director has reviewed the file and certified the Physician Panel Finding, the case file is to be referred to the Post Panel Coordinator (PPC). The PPC should review the file to ensure it contains the Physician Panel Report and the Recommendation of Acceptance from the OWA Physician.

7. Preparing the Notice of Final Decision. This document is a letter to each eligible applicant from the OWA that describes the outcome of the Physician Panel review process

(Exhibit 1 & 2). It is prepared for the signature of the Assistant Secretary of Environment, Safety and Health.

a. The Notice of Final Decision must contain certain information reported to the applicant.

(1) An explanation of the function of the Physician Panel Determination.

(2) Each claimed illness.

(3) For each claimed illness, the determination of the Physician Panel is to be identified. This should specify clearly whether or not the panel concluded that an illness was aggravated, contributed to or caused by toxic exposure.

(4) Contact information should be provided for the relevant State workers' compensation program under which the applicant may pursue a claim.

b. Appeal Rights. The regulations state that an applicant is granted the opportunity to pursue an appeal before the DOE's Office of Hearings and Appeals only in those instances where a negative determination of the Physician Panel has been accepted by the OWA. As such, the Notice of Final Decision is to contain information for seeking an appeal for only those cases where a negative determination was reached by the physician panel on any claimed illness.

8. Notice of Physician Panel Determination and Transmittal. This document is a form that advises the appropriate DOE Program Office that a panel determination has been rendered and that the OWA Program Office has accepted the finding (Exhibit 3 – Positive Notice of Physician Panel Determination and Transmittal). The claimed illnesses accepted by the Physician Panel are listed. The DOE contracting officer is instructed to advise the applicable contractor that there is to be no challenge or argument against any claim for workers' compensation benefits sought by the applicant in regard to any of the condition(s) for which the applicant received a positive determination. The Notice of Positive Physician

Panel Determination and Transmittal is prepared for the signature of the OWA Director.

9. Obtaining Appropriate Signatures. Once the PPC has prepared the Notice of Final Decision and the Notice of Physician Panel Determination & Transmittal, he or she should obtain the appropriate signatures. The Assistant Secretary of Environment, Safety and Health signs the Final Decision of the OWA. The Director of OWA signs the Notice of Physician Panel Determination & Transmittal. Neither may challenge the finding of the Physician Panel, unless there is significant evidence contrary to the Physician Panel determination.

10. Release of the Final Decision and Physician Panel Determination and Transmittal. After the PPC has obtained the appropriate signatures of the Assistant Secretary and the OWA Director, the documents are to be copied. The copied version of the Final Decision and the Physician Panel Determination and Transmittal are to be inserted into the case file. The file can then be returned to the OWA Program Office for appropriate handling and storage.

a. Each eligible applicant affected by the determination of the OWA, is to be provided with the following:

(1) The Final Decision containing the original signature of the Assistant Secretary; and

(2) A copy of the Physician Panel Report.

b. When the Final Decision contains a positive determination, the Physician Panel Determination and Transmittal containing the original signature of the OWA director is to be submitted to the appropriate cognizant contracting entity.

11. Appeal Requests by the Applicant. An applicant is granted the ability to appeal any final decision that contains an acceptance of negative physician panel determination. The applicant may challenge any aspect of the finding.

- a. Appeal requests are to be submitted to the Director, Office of Hearings and Appeals, HG-1/L'Enfant Plaza Building, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington D.C. 20585-1615.
- b. An applicant is granted thirty days from the date of the Notice of Final Decision to request an appeal.
- c. Any request for appeal must be in writing and describe the basis for appeal. The applicant should provide a phone number where they can be reached.
- d. Additional documentation in support of an appeal request can be submitted with an appeal request.

12. Reviews by the Office of Hearings and Appeals. OHA is an independent office that considers appeals of OWA determinations. In general, appeals challenge whether an OWA determination is consistent with the applicable statutory, regulatory and procedural requirements. Upon examination of an appeal request, OHA determines if a challenge brought by an applicant warrants a reversal, modification or affirmation of the final determination of OWA. In cases where an appeal is inappropriate, the appeal request is dismissed without precluding the appellant from filing a new appeal at a later date. OHA decisions are issued to both the applicant and OWA Program Office. In addition, a redacted version of the decision is published on the OHA web site. There are three types of Appeal findings by the Office of Hearings and Appeals (OHA).

- a. Grant. When an OWA determination is found incorrect or insufficient, OHA grants the appeal. A decision to grant an appeal signifies that OHA has found basis for reversing or modifying a determination of OWA. A remand order is issued requiring the OWA Program Office to undertake further processing under the rule and issue a new determination consistent with the guidelines set forth by OHA.
- b. Denial. If OHA decides that the OWA determination is correct, the appeal is denied. The decision issued by OHA advises the appellant that the determination of OWA is affirmed.

- c. Dismissal. If OHA determines that an appeal is inappropriate, it is dismissed. This most commonly will occur when an appeal is requested prior to an OWA determination.
13. Handling Applications Where OHA Has Granted an Appeal.
The OWA Program Office is responsible for ensuring that any OHA decision granting an appeal is addressed in a timely and expeditious manner. For case files involving multiple survivors, an appeal grant to any one survivor will vacate the OWA determination for all. The OWA Program Office is responsible for ensuring survivors affected by a decision of the OHA are properly notified and provided with a new determinations after any appropriate development.

**Exhibit 1 - Sample Notification of
Positive Final Decision**

(Applicant Address)

Dear Applicant :

I am writing to let you know that an independent Physician Panel has completed its review of the information presented with your claim for assistance under Part D of the Energy Employees Occupational Illness Compensation Act of 2000.

Your application has received a **positive determination** from the independent Physician Panel. This means that the Panel has concluded that exposure to a toxic substance at a DOE site was a significant factor in aggravating, contributing to or causing the illness for which your claim was filed. I have enclosed a copy of the Physician Panel report for your records.

Based on this finding, you may choose to apply for workers' compensation benefits in your State. Please understand that applying for workers' compensation benefits is separate from the Physician Panel review and that you will need to apply for benefits directly with your State. The Physician Panel determination may assist you in applying for State workers compensation benefits, but it alone will not result in benefits.

If you would like to apply for workers' compensation benefits, you may contact the following agency:

(State Workers' Compensation Agency Contact Information)

If you need assistance in this process, you may contact the (Resource Center Name and Contact Info). If you have any additional questions or concerns, please do not hesitate to contact the Office of Worker Advocacy at (877) 447-9756.

Sincerely,

Assistant Secretary
Environment, Safety and Health

**Exhibit 2 - Sample Notification of
Negative Final Decision**

(Applicant Address)

Dear Applicant:

Enclosed please find the Final Determination on your application for assistance under Part D of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000. The Office of Worker Advocacy's independent Physician Panel has completed its review of the information presented with your application.

Your application has received a **negative determination** from the independent Physician Panel. This means that the Panel has concluded that exposure to a toxic substance at a DOE site was not a significant factor in aggravating, contributing to or causing the illness or death for which your application was filed. I have enclosed a copy of the Physician Panel report for your records.

Please note that this determination does not affect any claim you may have filed under EEOICPA with the Department of Labor (DOL), nor does it affect your rights to apply for state workers' compensation on your own.

Further, you may appeal this determination to the Director, Office of Hearings and Appeals, HG-1/L'Enfant Plaza Building, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-1615. Your appeal should be in writing and should state why you believe that the determination is in error. You should include a copy of the determination letter and enclosures with your appeal, and you should provide a telephone number where you can be reached. Your appeal must be filed no later than 30 days after the date of this letter.

If you have a question about the appeals process, you may contact the Office of Hearings and Appeals at 202 287-1400, fax 202 287-1415, or visit their web site at www.oha.doe.gov. Please keep in mind that the Appeals Process is separate from the Office of Worker Advocacy claims process.

If you have any questions, please contact the DOE Office of Worker Advocacy Hotline toll free at 1-877-447-9756.

Sincerely,

Assistant Secretary
Environment, Safety and Health

Exhibit 3 - Positive Physician Panel Determination and Transmittal**Notice of Physician Panel Determination & Transmittal**

Office of Environment, Safety and Health
Energy Employees Occupational Illness Compensation
Program Act Part D
DOE State Workers' Compensation Assistance Program

U.S. Department of Energy

Office of Worker Advocacy
1000 Independence Avenue, S.W.
Room 1G-080
Washington, D.C. 20585

EM____ NNSA____ OS____

FACILITY____CONTRACTOR____

A Physicians Panel has determined that the applicant named below has an illness caused by exposure to a toxic substance at DOE. The DOE Office of Worker Advocacy has accepted the determination of the Physicians Panel. In accordance with the EEOICPA, when a worker files a workers' compensation first report of injury, the cognizant contracting officer should notify the contractor to accept primary liability for this workers' compensation claim and not raise any affirmative defenses against this claim or award in any administrative or judicial forum with respect to the same health condition for which the applicant received a favorable Physician Panel determination.

DATE OF PHYSICIAN PANEL DETERMINATION_____

DATE OF OWA ACCEPTANCE OF DETERMINATION_____

DIRECTOR, OFFICE OF WORKER ADVOCACY_____

CASE DATA

APPLICANT NAME_____ DOB_____/_____/_____

APPLICANT SSN _____-_____-_____

DATES OF EMPLOYMENT_____ TO _____

ILLNESS OR DIAGNOSIS_____

DATE OF DIAGNOSIS / ONSET_____

TRANSMITTAL

DOE SECRETARIAL OFFICE BY: NAME _____ DATE _____

DOE FIELD OFFICE MANAGER: NAME _____ DATE _____

COGNIZANT CONTRACTING OFFICER: NAME _____ DATE _____

Privacy Act

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Energy Employees Occupational Illness Compensation Program Act-Part D (P.L. 106-398) (EEOICPA) authorizes the collection of the information on this form; (2) The Office of Worker Advocacy of the U.S. Department of Energy, which administers the program, may disclose information to Federal agencies or private entities which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider other relevant matters; this is the principal purpose for which this information is collected; (3) information may be disclosed to federal agencies or entities whose mission entails reviewing or managing workers' compensation claims or administering other benefits programs; (4) information may be disclosed, as a routine use, to physicians and other health care providers for use in providing treatment or medical rehabilitation, making evaluations for the Office of Worker Advocacy, and for other purposes related to the medical management of the claim; (5) furnishing this information is voluntary, but failure to disclose all requested information may delay the processing of the claim or may result in an unfavorable decision. This notice applies to all forms requesting information that you might receive from the Office of Worker Advocacy in connection with the processing and adjudication of the claim you filed under the EEOICPA.